

**THE
JELLICO
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

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CITY OF JELICO, TENNESSEE

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PREFACE

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

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

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

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

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

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

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

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

Kelley Myers, ACP
Codes Administrator

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

SECTION 2.07. City legislation--when ordinances necessary; required wording; readings required; emergency ordinances.

(a) Any action of the board having a regulatory or penal effect, relating to revenue or appropriation of money, awarding franchises, authorizing the borrowing of money, conveying or leasing or authorizing conveyance or lease of any lands of the city, or required to be done by ordinance under this charter or the general laws of the state, is done only by ordinance. Other actions of the board may be accomplished by resolutions or motions.

Ordinances and resolutions shall be in written form before being introduced, and a copy shall be furnished to each member of the board and the city attorney in advance of the meeting at which introduced. The board may determine by ordinance or resolution the definition of "in advance." The enacting clause of ordinances is "Be it ordained by the board of mayor and aldermen of the City of Jellico". No action of the board of mayor and aldermen is valid or binding unless approved by the affirmative vote of a majority of the board present at the meeting at which the vote was taken. Any ordinance which repeals or amends existing ordinances shall cite the sections or subsections repealed or amended. Every ordinance, except an emergency ordinance, must be approved on two (2) readings not less than one (1) week apart, and becomes effective after final approval unless its terms provide a later effective date. Only the caption of ordinances and resolutions are required to be read at each reading. Written copies of the ordinances shall be available for public review. Each resolution becomes effective when adopted unless its terms provide otherwise.

To meet a public emergency affecting life, health or property, an emergency ordinance may be adopted on two (2) readings on separate days and become effective immediately, by the affirmative votes of three (3) members of the board, if the ordinance contains a full statement of the facts creating the emergency. The mayor has the authority to veto the emergency ordinance under the same guidelines as Section 2.03.

(b) The original copies of ordinances, resolutions, contracts and other documents are filed and preserved by the city recorder.

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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER AND TREASURER.
4. CODE OF ETHICS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

- 1-101. Resolution of a tie in election of mayor.
- 1-102. Committees provided.
- 1-103. Time and place of regular meetings.
- 1-104. Order of business.
- 1-105. General rules of order.
- 1-106. Compensation.

1-101. Resolution of a tie in election of mayor. When two (2) or more persons shall have an equal number of votes for the office of mayor the

¹Charter references

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

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

²Charter references

Composition: § 2.02.

Election: § 2.01.

Meetings: § 2.02.

Quorum: § 2.02.

Recall elections: § 2.06.

Salaries: § 2.02.

Vacancy in office: § 2.05.

election may be decided by a majority of the votes of the aldermen elect. (1968 Code, § 1-101)

1-102. Committees provided.¹ (1) At the first meeting following the election of the mayor and board of aldermen and in January of each year, the mayor shall appoint the following standing committees to serve for a period of one (1) year.

Finance committee;
 Street committee;
 Welfare and sanitation committee;
 Police and fire committee;
 Civic development committee;
 Utilities committee.

(2) Each of the committees shall consist of three (3) members, a chairman and two (2) other members of the city council, all of whom shall be appointed.

(3) A member of the council shall be chairman of only one (1) committee and shall serve as a member of two (2) additional committees. A member shall not serve on a committee if a member of his family is employed in that department.

(4) If the mayor fails to make the appointments in January of each year then at the next regular meeting, the vice-mayor shall make the appointments. If the mayor and vice-mayor fail to make the appointments as required, the committees shall be nominated and elected by the board. (Ord. #17-204, Nov. 2004, as amended by Ord. #82-2011, March 2011)

1-103. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 6:30 P.M. on the 3rd Thursday of each month at the municipal building.

(1) Regular and special called meetings of the board of mayor and aldermen may be held by electronic means during any state of emergency, pandemic, epidemic or when conditions arise that affect, or could reasonably be expected to affect the life, safety, or welfare of citizens, employees, or elected officials.

(2) A meeting by electronic means shall mean two (2) way electronic audio-video communications or two (2) way audio communications.

(3) The following conditions must be met to hold meetings by electronic means:

(a) Adequate public notice shall be provided by the most expedient means; and

¹Municipal code reference
 Finance committee: § 5-102.

(b) The mayor shall provide not less than seventy-two (72) hours notice to members of the board of mayor and aldermen that such meeting shall be held by electronic means; and

(c) Meetings held by electronic means shall be and shall remain open to the public; and

(d) Meetings held by electronic means shall not be used to avoid the requirements of the open meetings laws.

(4) Special called meetings may be held by electronic means by giving notice as required under existing ordinances.

(5) When regular and special called meetings of the board of mayor and aldermen are held in person, aldermen that cannot be present in person may attend such regular or special called meeting by electronic means and participate in conducting the business of the City of Jellico fully, as if that member was present in person; and such alderman attending any such meeting by electronic means shall be counted for the purposes of a quorum; when:

(a) Any such alderman is out of town; or,

(b) Any such aldermen is unable to attend in person for medical reasons. (1968 Code, § 1-103, as amended by Ord. #5, Sept. 1981, and Ord. #2019-03, March 2019, modified)

1-104. Order of business. At each meeting of the board of mayor and aldermen the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

(1) Call to order by the mayor.

(2) Roll call by the recorder.

(3) Reading of minutes of the previous meeting by the recorder and approval or correction.

(4) Grievances from citizens.

(5) Communications from the mayor.

(6) Reports from committees, members of the board of mayor and aldermen and other officers.

(7) Old business.

(8) New business.

(9) Adjournment. (1968 Code, § 1-104)

1-105. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, 11th edition, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with the provisions of this code hereinafter set out.

(1) The mayor shall at all times have power to convene the board.

(2) A majority of the board shall at all times constitute a quorum for the transaction of business.

(3) It shall be the duty of the mayor to notify all members of any called meeting.

(4) The mayor, or other person presiding, shall decide all points of order, subject to an appeal to the board.

(5) It shall be the duty of the mayor at all times, upon the written request of two (2) or more members of the board, to convene the same.

(6) None other than a member shall address the chairman, unless with a consent of a majority of the board.

(7) Each member in addressing the chair shall rise to his feet.

(8) During the pending of any question before the board, the following motions may be made:

(a) To adjourn.

(b) To lay on the table any motion, resolution or ordinance.

(c) To postpone indefinitely.

(d) To call for the previous question.

(e) To refer to a committee.

The motion to adjourn, to lay on the table, and the previous question shall not be debatable.

(9) Every ordinance, except an emergency ordinance, must be approved on two (2) readings not less than one (1) week apart. To meet an emergency affecting life, health or property, an emergency ordinance may be adopted on two (2) readings on separate days.

(10) No member of the board shall be allowed to speak more than twice upon the same subject, except upon consent given by a majority of the board.

(11) No ordinance or resolution shall be acted upon by board unless it be reduced to writing.

(12) All ordinances, resolutions or motions must be read and seconded before they are debatable.

(13) All ordinances passed on first reading shall be referred to the standing committee having jurisdiction of the subject matter of the ordinance, and such committee shall report on the same at the next meeting for adoption, modification or rejection, as the case may be. If such ordinances be general in their nature, they shall be referred to a special committee of three to be appointed by the presiding officer, which committee shall report in like manner to next meeting of board.

(14) No one of the foregoing rules shall be suspended except by the unanimous consent of the board and mayor. (1968 Code, § 1-105, as amended by Ord. #15, Dec. 1978, modified)

1-106. Compensation. The salaries of the mayor and aldermen may be changed from time to time by ordinance; provided, however, that if the amount of such compensation is altered, whether by raise or diminution, the altered salary shall not become effective until after the next election of city officials. (Ord. #9-2003, Feb. 2004)

CHAPTER 2

MAYOR¹

SECTION

- 1-201. Shall convene board of mayor and aldermen, ascertain election results, and install elected officers.
- 1-202. Generally supervises municipality's affairs.
- 1-203. Shall report neglect of duty of officers.
- 1-204. Duty when city involved in law suit.
- 1-205. Executes municipality's contracts.

1-201. Shall convene board of mayor and aldermen, ascertain election results, and install elected officers. The mayor shall, on the third Saturday in April, after the biennial election, convene the board of mayor and aldermen at the municipal building for the purpose of ascertaining from the election returns who has been elected mayor and who aldermen, and the persons chosen shall be qualified and installed in office at 6:30 P.M. (1968 Code, § 1-201, modified)

1-202. Generally supervises municipality's affairs. The mayor shall have general supervision and control over all city officers, and may, whenever he shall see fit, examine into the condition of their respective offices, the books, papers and records therein, the manner of conducting their official business, and may call upon any officer, clerk, or deputy for information concerning said business. (1968 Code, § 1-202)

1-203. Shall report neglect of duty of officers. The mayor shall report to the board of mayor and aldermen all violations or neglect of duty on the part of any city officer which may come to his knowledge. (1968 Code, § 1-203)

1-204. Duty when city involved in law suit. Whenever any process or notice shall be served on the mayor in any legal proceedings against the city, he shall instantly deliver the same, or a sufficient notice thereof, to the city

¹Charter references

Administrative duties: § 3.02.

Bond required: § 3.09.

Compensation: § 2.02(b).

Duties: § 2.03.

Oath of office: § 3.08.

Veto power: § 2.03.

attorney; or if no such attorney, to some other attorney selected by the mayor in order that the same may have suitable and proper attention. (1968 Code, § 1-205)

1-205. Executes municipality's contracts. The mayor shall execute all contracts authorized by the governing body. (1968 Code, § 1-206)

CHAPTER 3

RECORDER¹ AND TREASURER

SECTION

- 1-301. Offices combined.
- 1-302. Shall be bonded.
- 1-303. Shall keep minutes.
- 1-304. Shall collect privilege taxes, issue licenses, and keep records.
- 1-305. Shall receive and disburse city funds.
- 1-306. Shall perform general administrative duties.

1-301. Offices combined. The offices of recorder and treasurer shall be combined, and duties of both shall be performed by one (1) individual. (1968 Code, § 1-301)

1-302. Shall be bonded. Before assuming the duties of his office, the recorder-treasurer shall be bonded, in an amount prescribed by the board, by two (2) or more sureties, who are to be approved by the mayor or by a state approved corporate surety. (1968 Code, § 1-302)

1-303. Shall keep minutes. The recorder-treasurer shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1968 Code, § 1-303)

1-304. Shall collect privilege taxes, issue licenses, and keep records.² The recorder-treasurer shall collect all privilege taxes and issue all licenses pursuant thereto; he shall keep an accurate record of the privilege taxes collected and the licenses issued, specifying the purpose of the license, the person receiving, date issued, and expiration date. (1968 Code, § 1-304)

1-305. Shall receive and disburse city funds. It shall be the duty of the recorder-treasurer to receive all funds for the use and benefit of the city and

¹Charter references

Appointment: § 3.03.

Bond required: § 3.09.

Oath of office: § 3.08.

Powers and duties: § 3.03.

²Municipal code reference

Issuance of beer permits: title 8, chapter 2.

to disburse the same in accordance with the charter and ordinances of the city. He shall keep regular and correct accounts in accordance with the generally accepted accounting principles for municipalities. All checks or drafts issued in disbursement of city funds other than payroll checks or drafts shall bear the signatures of the mayor and the city recorder, or the signatures of the chairman of the finance committee and the city recorder. (1968 Code, § 1-305, as amended by Ord. #7, April 1978)

1-306. Shall perform general administrative duties. The recorder-treasurer shall perform all administrative duties for the board of mayor and aldermen and for the municipality which are not expressly assigned by the charter or this code to another corporate officer. He shall also have custody of, and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the municipality shall provide. (1968 Code, § 1-306)

CHAPTER 4

CODE OF ETHICS

SECTION

- 1-401. Applicability.
- 1-402. Definition of personal interest.
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in non-voting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations and penalty.

1-401. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (Ord. #92-2011, July 2011)

1-402. Definition of personal interest. (1) For purposes of §§ 1-403 and 1-404, "personal interest" means:

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

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

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or 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. (Ord. #92-2011, July 2011)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure. (Ord. #92-2011, July 2011)

1-404. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #92-2011, 2011)

1-405. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #92-2011, July 2011)

1-406. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #92-2011, July 2011)

1-407. 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.

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (Ord. #92-2011, July 2011)

1-408. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (Ord. #92-2011, July 2011)

1-409. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (Ord. #92-2011, July 2011)

1-410. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (Ord. #92-2011, July 2011)

1-411. Violations and penalty. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #92-2011, July 2011)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. BOARD TO CONTROL MUNICIPAL UTILITIES.
2. THE JELICO TOURISM AND COMMUNITY ACTIVITIES COMMISSION.

CHAPTER 1

BOARD TO CONTROL MUNICIPAL UTILITIES

SECTION

2-101. Control of municipal utilities.

2-101. Control of municipal utilities. The Board of Mayor and Aldermen of the City of Jellico, Tennessee, pursuant to law and the provisions of Tennessee Code Annotated, title 7, chapter 52, being authorized to perform the duties heretofore performed by the "Municipal Board of Public Utilities" of the City of Jellico, does herewith abolish the present "Municipal Board of Public Utilities" of the City of Jellico, also known as the "utilities board" or "power board," and hereafter assume for itself all of the rights and responsibilities to perform the duties authorized under state law and the applicable sections, chapters and/or ordinances of the City of Jellico and under the Jellico City Code relating to "Municipal Board of Public Utilities" of the City of Jellico. The Board of Mayor and Alderman of the City of Jellico, Tennessee ("Jellico City Council") shall henceforth have all the powers, duties, and responsibilities imposed on the former board known and designated as the "Municipal Board of Public Utilities" of the City of Jellico by state law, and all references to the board known and designated as the "Municipal Board of Public Utilities" of the City of Jellico in said statute, or in the ordinances of the city shall refer to the Board of Mayor and Alderman of the City of Jellico, Tennessee ("Jellico City Council") acting in the capacity of such "Municipal Board of Public Utilities" of the City of Jellico. The existing members of the "Municipal Board of Public Utilities" of the City of Jellico are hereby removed in favor of the members of the city council comprised of the Mayor and Councilmen of the Jellico Board of Aldermen also known as the Jellico City Council and/or board of mayor and aldermen.

The Mayor and Board of Aldermen of the City of Jellico also known as the Jellico City Council shall henceforth be vested with all authority to generally supervise and control the acquisition, improvement, operation, and maintenance of the municipal utilities including the electric, water and sewer systems, subject to such lawful delegation of duties heretofore delegated by law and/or the Jellico City Council to the superintendent of said system and subject to such as may hereafter be lawfully modified. All prior contracts, agreements, and obligations including any and all bond obligations of whatever kind and nature heretofore entered into by the city council and/or by the board heretofore known and designated as the "Municipal Board of Public Utilities" of the City of Jellico which formerly had jurisdiction over the city's electrical

system, waterworks, and sewerage works shall be fully honored without abatement according to the terms and conditions thereof subject to and in compliance with applicable law and regulations. (Ord. #2019-06-03, July 2019)

CHAPTER 2

THE JELICO TOURISM AND COMMUNITY ACTIVITIES COMMISION

SECTION

2-201. Creation, membership, etc.

2-201. Creation, membership, etc. The mayor and board of aldermen desire to promote tourism and economic opportunities now hereby creates the Jellico Tourism and Community Activities Commission as set forth herein.

(1) Creation. There is hereby established the Jellico Tourism and Community Activities Commission whose primary activities are implementation of activities to promote tourism and economic opportunities related to tourism.

(2) Tourism coordinator position. There is hereby established the salaried position of tourism coordinator.

(3) Membership. Establish the membership of said Jellico Tourism and Community Activities Commission to consist of nine (9) members; one (1) of whom shall be the alderman chairing the civic development committee; the other eight (8) shall be appointed by the mayor. Except for the initial appointments, the terms of the eight (8) appointed members by the mayor shall be for five (5) years each. Upon initial appointment, three (3) members shall serve three (3) years, and two (2) members shall serve one (1) year. The mayor shall serve as an ex-officio member. The term of the mayor and alderman shall be coterminous with their elected office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (Ord. #1, March 1984, modified)

TITLE 3**MUNICIPAL COURT¹****CHAPTER**

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

CHAPTER 1**CITY JUDGE****SECTION**

- 3-101. Authority.
- 3-102. Powers.
- 3-103. To be appointed.
- 3-104. Vacancies.
- 3-105. Oath of office.

3-101. Authority. Section 3.05 of the Jellico City Charter and pursuant to Private Chapter No. 91, House Bill No. 4253, Private Acts of 2008 of the Tennessee Legislature; there was hereby established a municipal court and the office of city judge for the City of Jellico, Tennessee as authorized by Tennessee Code Annotated, § 6-4-301, et seq. (Ord. #66-2009, May 2009)

3-102. Powers. The city judge was and shall be vested with the judicial power and functions of a municipal court to hear municipal ordinance violations. (Ord. #66-2009, May 2009)

3-103. To be appointed. The city judge shall be appointed by the Mayor and Jellico Board of Aldermen and is subject to removal at will, by the board of mayor and aldermen. (Ord. #66-2009, May 2009)

3-104. Vacancies. Vacancies in the office of city judge shall be filled as provided in § 3-103 of this chapter. (Ord. #66-2009, May 2009)

¹Charter references

Docket: § 3.05(d).

Fines and costs: § 3.05(c).

3-105. Oath of office. The city judge shall, before entering upon the duties of this office, take an oath or affirmation, before the Jellico City Recorder as follows:

I, _____, so solemnly swear that I will support the Constitution of the United States and of the State of Tennessee, and the ordinances of the City of Jellico. And that I will administer justice without respect to persons, and do equal rights to the poor and to the rich, and that I will faithfully and impartially discharge all the duties incumbent upon me as a city judge to the best of my ability. (Ord. #66-2009, May 2009)

CHAPTER 2**CITY COURT****SECTION**

- 3-201. City court.
- 3-202. Number of judges.
- 3-203. Qualifications.
- 3-204. Municipal jurisdiction.
- 3-205. General powers.
- 3-206. Court cost generally.
- 3-207. Schedule of court costs, fees and taxes.
- 3-208. Bail.
- 3-209. Separation of powers.
- 3-210. Vacancy.
- 3-211. Records; docket; city clerk.
- 3-212. Established court times.

3-201. City court. In accordance with Private Chapter Number 44, House Bill Number 2641, passed by the 109th General Assembly of the State of Tennessee, on March 24, 2016, City Court for the City of Jellico shall be established and administered in the following manner. (Ord. #3, July 1993, modified)

3-202. Number of judges. The number of persons who shall serve as city judge is established by this chapter as one (1). (Ord. #3, July 1993)

3-203. Qualifications. The city judge shall:

- (1) Be a resident of the City of Jellico one (1) year immediately preceding his or her election,
- (2) Be a resident of the State of Tennessee five (5) years immediately preceding his or her election,
- (3) Be at least thirty (30) years of age,
- (4) Be licensed to practice law in the courts of Tennessee. (Ord. #3, July 1993, modified)

3-204. Municipal jurisdiction. The city judge shall have the authority to try persons charged with violations of city ordinances and to punish persons convicted of such violations by levying a civil penalty not to exceed the maximum civil penalty allowed under state law. (Ord. #3, July 1993)

3-205. General powers. The city judge shall have the power to levy fines, penalties, forfeitures and costs, to issue all necessary process, to administer oaths, and to maintain order, including the power to punish for

contempt of court by fine or confinement not exceeding the limits provided by general laws. (Ord. #3, July 1993)

3-206. Court cost generally. Costs in trials of offenses against the ordinances of the city shall be provided by ordinance. Costs in other matters shall be as established under general laws of the State of Tennessee. (Ord. #3, July 1993)

3-207. Schedule of court costs, fees and taxes. The schedule of court costs, fees and taxes for the City Court for Jellico, Tennessee shall be as follows:

(1) Litigation tax. The litigation tax shall be thirteen dollars and seventy-five cents (\$13.75).

(2) Court fines. The court fines shall be up to a maximum of fifty dollars (\$50.00).

(3) Municipal court costs.

Traffic and vehicle equipment violations:

All cases \$214.00

Safety Enforcement Act 25.00

Contempt of court

All cases 314.00

Administrative cost (if applicable)

Jail fee 30.00

Meal fee 10.00

Fingerprinting \$4.00

Issuing summons/subpoena 15.00

Serving summons/subpoena 25.00

Issuing contempt 5.00

Serving contempt 25.00

One dollar (\$1.00) of the court costs in each case will be forwarded by the court clerk to the Tennessee 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. (Ord. #69-2009, May 2009, modified)

3-208. Bail. The bail of persons arrested and awaiting trials and persons appealing the decision of a city judge shall be fixed by the city judge and upon such security as in his or her discretion he or she deems necessary or as otherwise may be provided by ordinance or general law. (Ord. #3, July 1993)

3-209. Separation of powers. The city judge shall be the exclusive judge of the law and facts in every case before him or her and no official or

employee of the city shall attempt to influence his or her decision except through pertinent facts presented in court. (Ord. #3, July 1993)

3-210. Vacancy. A vacancy in office of the city judge shall be filled by appointment by the mayor and confirmed by the board mayor and aldermen. (Ord. #3, July 1993, modified)

3-211. Compensation. The salary of the City of Jellico municipal judge shall be established at eight hundred dollars (\$800.00) per month. (Ord. #65-2009, May 2009)

3-212. Records; docket; city clerk. The city does not elect, as permitted by the laws of the State of Tennessee, to require the city court clerk to be elected. The city recorder shall have the duty of maintaining all records of the city court in accordance with applicable laws. The city may employ a person, or designate an existing employee, to assist the city recorder in this function and such person shall be designed as city court clerk. The board shall require the proper maintenance of the docket of the city court and other records of the court. Subject to general law and the authority of the city judge, the board shall fix the regular time for holding court. (Ord. #3, July 1993)

3-213. Established court times. (1) The city court will meet on a minimum of two (2) times per month.

(2) If necessary, the city municipal judge may call court for additional sessions at his/her discretion.

(3) The city municipal judge may set the time for the Jellico Municipal Court to meet. (Ord. #70-2009, May 2009)

CHAPTER 3

COURT ADMINISTRATION

SECTION

3-301. Maintenance of docket.

3-302. Disposition and report of fines, penalties, and costs.

3-303. Disturbance of proceedings.

3-304. Trial and disposition of cases.

3-305. Court administration.

3-301. 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. (1968 Code, § 1-502)

3-302. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge 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. (1968 Code, § 1-511)

3-303. 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. (1968 Code, § 1-512)

3-304. 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. The city court shall be held at the office of the recorder, and shall be convened at 9:00 A.M. everyday except Sunday, and shall continue until all cases have been examined and disposed of. 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. (1968 Code, § 1-506)

3-305. Court administration. (1) Procedures for payment of court fines and costs; establishment of offense for failure to abide by the terms and conditions set by the city court judge:

(a) The mayor shall establish parameters as to the times, date and places and personnel authorized to receive and give receipts for city court fines and court costs.

(b) Within his judicial discretion, the city court judge shall designate which fines and costs may be eligible for deferred payment and shall, as to those instances selected in his discretion for deferred payment, specify the times, dates and personnel within the parameters set by the mayor.

(c) In each and every instance in which a person convicted of a city ordinance and/or other statutory offense shall be given additional time within which to pay fines and costs, such individual shall be given written instructions as to the time, place, and persons or office to whom said payment shall be made at the time of the judgment hearing.

(d) Failure of a person liable to pay fines and/or court costs within the time provided by the city court judge, and/or to the person and/or at the place so specified shall be guilty of the separate offense of contempt of court.

(e) Any conduct or statement by any person adjudged liable for the payment of any fines or costs and/or any conduct or statement by any person evidencing any interest in the liability of any other party who is otherwise liable for the payment of city court fines and/or who shall, in the city hall or on the city hall premises conduct him or herself in a loud (i.e., other than conversational tones), abusive, threatening, obnoxious, outrageous, boisterous, and/or disorderly fashion and/or who reasonably causes a fear of, or threat of, bodily harm or intimidation in any person present and/or in any employee of the city, and/or any elected or appointed official of the City of Jellico shall also be guilty of the separate offense of contempt of court.

(f) Any person convicted of the offense of contempt of court shall be charged a fine not to exceed fifty dollars (\$50.00) for each incident constituting contempt of court, as defined hereinabove.

(2) Court costs. There is hereby adopted and incorporated by reference the provisions of Tennessee Code Annotated, § 8-21-401, et seq., scheduled fees, as said section now exists or is hereafter amended, for the purpose of establishing a rate for commissions and court costs for receiving and paying over privilege taxes on litigation and to authorize the city court clerk to demand and receive, where appropriate, the fees and costs therein indicated.

(3) Severability. Should any subsection of this section be held to be unconstitutional by any judge of competent jurisdiction, it shall not affect the remaining subsections of this section. (Ord. #68-2009, May 2009)

CHAPTER 4

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-401. Issuance of summonses.

3-402. Issuance of subpoenas.

3-401. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1968 Code, § 1-504)

3-402. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1968 Code, § 1-505)

CHAPTER 5

BONDS AND APPEALS

SECTION

3-501. Appeals.

3-502. Bond amounts, conditions, and forms.

3-501. 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.¹ (1968 Code, § 1-509)

3-502. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1968 Code, § 1-510)

¹State law reference

Tennessee Code Annotated, § 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL

[RESERVED FOR FUTURE USE]

TITLE 5**MUNICIPAL FINANCE AND TAXATION¹****CHAPTER**

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES GENERALLY.
4. WHOLESALE BEER TAX.
5. LOCAL SALES TAX.
6. HOTEL OCCUPANCY PRIVILEGE TAX.
7. OPERATIONS AND FINANCIAL MANAGEMENT.
8. PURCHASING POLICY.

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

- 5-101. Official depositories for city funds.
5-102. Finance committee.

5-101. Official depositories for city funds. The First National Bank and the Union Bank of Jellico, Tennessee, are hereby designated as the official depositories for all municipal funds. (1968 Code, § 6-601)

5-102. Finance committee. The finance committee shall originate and/or review proposals, plans, or programs concerning budgetary and other fiscal matters of the municipality, and shall make investigations and submit reports and/or recommendations to the board of mayor and aldermen on such matters. (1968 Code, § 6-602)

¹Charter references

Delinquency penalties: § 4.15.

Delinquent taxes: § 4.16.

Due dates and tax bills: § 4.15.

Levy: § 4.14.

Property taxes: § 4.12.

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.¹ Taxes levied by the municipality against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1968 Code, § 6-101)

5-202. When delinquent--penalty and interest.² 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.³ (1968 Code, § 6-102)

¹State law references

Tennessee Code Annotated, §§ 67-1-701, 67-1-702 and 67-5-2010, 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.

²Charter 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 one-half of one percent (1/2 of 1%) and interest of one percent (1%) shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

³Charter and state law references

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

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

(continued...)

CHAPTER 3

PRIVILEGE TAXES GENERALLY¹

SECTION

5-301. Tax levied.

5-302. License required.

5-303. Litigation tax levied.

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. (1968 Code, § 6-301)

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. (1968 Code, § 6-302)

5-303. Litigation tax levied. (1) Effective on September 1, 2012, the city litigation tax shall become effective as follows: On cases in city court there is hereby levied a city litigation tax to match the state litigation tax of thirteen dollars and seventy-five cents (\$13.75).

(2) The privilege taxes levied pursuant to this chapter shall be paid to the city recorder monthly to be used to assist in paying for the operation of city court and for the police department. (Ord. #105-2012, Aug. 2012)

(...continued)

§ 67-5-2005.

¹Charter reference

Levy of a privilege tax: 6.03.

Municipal code reference

Privilege taxes on fireworks: title 7, chapter 4.

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 6.¹ (1968 Code, § 6-401)

¹State law reference

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

CHAPTER 5

LOCAL SALES TAX

SECTION

5-501. Authorization of tax.

5-502. Collection of tax.

5-503. Effective date.

5-501. Authorization of tax. There is hereby levied by and for the City of Jellico a tax on the same privileges subject to the "Retailers' Sales Tax Act" under Tennessee Code Annotated, title 67, chapter 6, as the same may be amended, which are exercised within said City of Jellico, which tax hereby levied shall be collected on all such privileges to the extent and in the amount of one-third (1/3) of the rates levied therein; provided that said tax shall not exceed five dollars (\$5.00) on the sale or use of any single article of personal property; provided however, that said tax levy shall not apply on the sale, purchase, use, consumption or distribution of electric power or energy, or of natural or artificial gas or coal and fuel oil; it being the intent to levy said tax on all privileges, together with interest and penalties for delinquencies, in the maximum amount permitted, and to be collected in the manner provided for, by said "Retailers' Sales Tax Act" under Tennessee Code Annotated, title 67, chapter 6, and as authorized to be levied by municipalities under said "1963 Local Option Revenue Act," being Chapter No. 329 of the Public Acts of Tennessee for the year 1963, and any Acts amendatory thereof, and subject to any exclusions, prohibitions and limitations provided for in said Acts. (1968 Code, § 6-501)

5-502. Collection of tax. (1) It is the intent that the City of Jellico avail itself of the services and facilities of the Department of Revenue of the State of Tennessee in the collection of said tax in the manner and to the extent provided for in said "1963 Local Option Revenue Act" and any Acts amendatory thereof, in furtherance of which the mayor of said City of Jellico shall do all things necessary to cause certified copy of this chapter to be delivered to said department of revenue in accordance with regulations prescribed by said department, and as may be otherwise required, and to do any and all other things incident thereto that may be necessary or required by law.

(2) Said tax shall be due and payable at the same time as the state sales tax, and, together with any penalties and interest, collected concurrently with the state sales tax.

(3) The Department of Revenue of the State of Tennessee shall collect such tax concurrently with the collection of the state sales tax in the same manner that said state tax is collected, in accordance with the provisions of said 1963 Local Option Revenue Act and said Retailers' Sales Tax Act, as the same

may be amended, and the rules and regulations promulgated by the Commissioner of Revenue of the State of Tennessee, all of which are by reference adopted; provided that said department or the said commissioner of revenue has determined that such collection of said tax is feasible, and has promulgated rules and regulations governing such collection. The department shall remit the proceeds of the said tax to the City of Jellico, less a reasonable amount of percentage as determined by the department to cover the expenses of administration and collection.

(4) Upon any claim of illegal assessment and collection of said tax, the taxpayer or taxpayers shall have the remedy provided in Tennessee Code Annotated, § 67-6-710 and the other statutes of the State of Tennessee referred to therein together with any other applicable statutes of said state, for the recovery of any such taxes illegally assessed and collected, and paid under protest as therein provided for; and the recorder of the City of Jellico, Tennessee, is hereby designated as the municipal officer against whom suit may be brought for recovery in the event the tax is collected by the department of revenue. (1968 Code, § 6-502)

5-503. Effective date. This chapter shall not become operative until approved in an election to be held and conducted in said City of Jellico by and under the direction of the county election commission in and for Campbell County, Tennessee, within sixty (60) days after receipt by said county election commission of a certified copy of this chapter, as authorized and provided for by said "1963 Local Option Revenue Act" being Chapter No. 329 of the Public Acts of Tennessee for the year 1963, and any Acts amendatory thereof.

The mayor of said city shall do all things necessary to cause said certified copy of this chapter to be furnished to said county election commission, and to do any and all other things necessary or deemed necessary and advisable to cause and stable said county election commission to call, hold and conduct said election as required by the laws of the State of Tennessee. (1968 Code, § 6-503)

CHAPTER 6

HOTEL OCCUPANCY PRIVILEGE TAX

SECTION

- 5-601. Definitions.
- 5-602. Tax levied.
- 5-603. Tax is additional tax.
- 5-604. Purpose--allocation and distribution of tax proceeds.
- 5-605. Collection of tax by operator--refund.
- 5-606. Monthly tax return and remittance of tax--compensation of operator--form of return--annual audit.
- 5-607. Delinquent taxes--penalty and interest.
- 5-608. Restrictions on operator advertisement--violation of restriction and civil penalty.
- 5-609. Operator required to keep records--inspection of records by clerk--violation and civil penalty.
- 5-610. Civil penalty for willful refusal to collect, remit or pay tax.
- 5-611. Administration and enforcement--powers and duties of clerk.
- 5-612. Taxpayer remedies--tax refunds--time limitation on claims--notice of payment under protest and suit on claim for refund.

5-601. Definitions. For purposes of this chapter and as herein used:

- (1) The word "city" means the City of Jellico, Tennessee.
- (2) The word "clerk" means the city recorder.
- (3) The phrase "city legislative body" means the board and mayor of aldermen of the city.
- (4) The word "consideration" means the consideration charged, whether or not received, for occupancy in a hotel, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without deduction therefrom, whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.
- (5) The word "hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist cabin, tourist court, tourist camp, motel, or any space or place in which rooms, lodgings or accommodations are furnished to transients for a consideration.
- (6) The word "occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings, spaces or accommodations in any hotel.

(7) The word "operator" means the person operating the hotel whether as owner, lessee or otherwise.

(8) The word "person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental entity, or any other group or combination acting as a unit.

(9) The word "transient" means any person who exercises occupancy or is entitled to exercise the occupancy of any rooms, lodgings or accommodations in a hotel for any period of time less than thirty (30) continuous days.

(10) The word "tourism" means the planning and conducting of programs of information and publicity designed to attract to the municipality, tourists, visitors and other interested persons from outside the area and also encouraging and coordinating the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. It also means the acquisition, construction and remodeling of facilities useful in the attraction and promoting of tourist, convention and recreational business. (Ord. #18-2005, June 2005)

5-602. Tax levied. Pursuant to Chapter No. 40 of the Private Acts of the General Assembly of the State of Tennessee for the year 1981 as amended by Chapter No. 42 of the Private Acts of the General Assembly of the State of Tennessee for the year 2005, there is hereby levied a privilege tax of five percent (5%) on the rate charged or to be charged by the operator upon the occupancy of any transient in any hotel located within the municipal boundaries of the City of Jellico, Tennessee. (Ord. #18-2005, June 2005)

5-603. Tax is additional tax. The tax herein levied is in addition to all other taxes levied or authorized to be levied whether in the form of excise, sales, license, or privilege taxes and are in addition to any other fees and taxes now levied or authorized to be levied. (Ord. #18-2005, June 2005)

5-604. Purpose--allocation and distribution of tax proceeds. It is hereby declared to be the purpose of this chapter to provide revenues both for the purpose of promoting tourism and for the support of the general governmental functions of the city, accordingly, one fourth (1/4) of the proceeds from the tax herein levied shall be allocated and used for the promotion of tourism and three fourths (3/4) shall be deposited to the general funds of the city. (Ord. #18-2005, June 2005)

5-605. Collection of tax by operator--refund. (1) (a) The tax herein levied shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the operator's hotel and given directly or transmitted to the transient.

(b) The operator is required to collect the tax so invoiced from the transient at the time of the presentation of the invoice for occupancy and if credit is extended or granted therefor by the operator to the transient, then the obligation to the city will be the obligation of the operator.

(c) The tax so invoiced by the operator shall be remitted to the clerk as provided in § 5-606 of this chapter.

(2) When a person has maintained occupancy in the same room, space, lodging or accommodation for a continuous thirty (30) consecutive days, without interruption, that person shall receive from the operator a refund or credit for the tax previously collected or charged to that person and the operator shall receive credit for the amount of such tax if previously paid or reported to the city. (Ord. #18-2005, June 2005)

5-606. Monthly tax return and remittance of tax--compensation of operator--form of return--annual audit. (1) A monthly tax return shall be filed with the clerk and the tax herein levied shall be remitted to the clerk by all operators who lease, rent or charge for any rooms or spaces in hotels located within the municipal boundaries of the city no later than the twentieth (20) day of each calendar month for the preceding calendar month.

(2) For the purpose of compensating the operator in accounting for the collection and remittance of this tax to the clerk, the operator shall be allowed two percent (2%) of the amount of the tax due in the form of a deduction; provided, that the return and the amount due is not delinquent; and, provided further, that the maximum deduction allowable to the operator for any one (1) calendar month shall not exceed the sum of twenty-five dollars (\$25.00).

(3) The monthly tax return filed by the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such return shall be as developed by the clerk and approved by the city legislative body.

(4) The clerk shall audit each operator in the city at least once each year and shall report on the audits made on a quarterly basis to the city legislative body. (Ord. #18-2005, June 2005)

5-607. Delinquent taxes--penalty and interest. (1) Tax returns and taxes collected by an operator which are not filed and remitted to the clerk on or before the due dates provided in § 5-606 of this chapter are delinquent.

(2) An operator is liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. The maximum penalty shall not exceed twenty-five (25%) percent of the tax due, provided, however, that there shall be a minimum penalty in the amount of ten dollars (\$10.00) on each delinquent return regardless of the amount of the tax due or whether there is any tax due. Such

interest and penalty shall become a part of the tax herein required to be remitted. (Ord. #18-2005, June 2005)

5-608. Restrictions on operator advertisement--violation of restriction and civil penalty. (1) No operator of a hotel shall advertize or state in any manner, whether directly or indirectly, that the tax levied by this chapter or any part thereof will be assumed or absorbed by the operator or that the tax will not be added to the consideration charged or, if added, that any part thereof will be refunded.

(2) Each occurrence of any such advertisement or statement by or on the part of an operator is a violation of this chapter and shall be punishable, upon conviction, by a civil penalty not to exceed fifty dollars (\$50.00). (Ord. #18-2005, June 2005)

5-609. Operator required to keep records--inspection of records by clerk--violation and civil penalty. (1) (a) Every operator liable for the collection and remittance of the tax imposed by this chapter is required to keep and preserve, for a period of three (3) years, all records which may be necessary to determine the amount of any such tax for which the operator may be liable or obligated to the city; and

(b) The clerk shall have the right, at all reasonable times, to inspect any and all such records.

(2) Each occurrence of a refusal or failure on the part of an operator to keep and maintain the records required of such operator by this section and each occurrence of a refusal or failure, on the part of an operator, to permit the clerk reasonable inspection of any such records shall constitute a violation of this chapter and shall be punishable, upon conviction, by a civil penalty not to exceed fifty dollars (\$50.00). (Ord. #18-2005, June 2005)

5-610. Civil penalty for willful refusal to collect, remit or pay tax.

Each occurrence of willful refusal on the part of an operator to collect and/ or remit the tax herein levied and each occurrence of a willful refusal on the part of a transient to pay such tax shall constitute a violation of this chapter and shall be punishable, upon conviction, by a civil penalty not to exceed fifty dollars (\$50.00). (Ord. #18-2005, June 2005)

5-611. Administration and enforcement--powers and duties of clerk. (1) It shall be the duty of the clerk to administer and enforce the provisions of this chapter.

(2) In addition to the powers and duties specifically provided for herein, the clerk, in administering and enforcing the provisions of this chapter, shall have those powers and duties with respect to collecting taxes as are provided for in Tennessee Code Annotated, title 67 and as are otherwise provided by law for clerks. (Ord. #18-2005, June 2005)

5-612. Taxpayer remedies--tax refunds--time limitation on claims--notice of payment under protest and suit on claim for refund.

(1) Upon any claim of illegal assessment or collection, the taxpayer, vis a vis the city, shall have the same remedies provided in Tennessee Code Annotated, title 67 which apply to the recovery of state taxes illegally assessed and collected and the provisions of § 67-1-707 shall be applicable to adjustments and refunds.

(2) With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the clerk under the authority of this chapter shall be refunded by the clerk; provided, however, that any claim for such refund for taxes alleged to have been erroneously or illegally paid shall be filed with the clerk, supported by proper proof, within one (1) year from the date of payment, otherwise the taxpayer shall not be entitled to a refund and the claim for refund shall be barred.

(3) Notice of any tax paid under protest shall be given to the clerk in writing and the mayor is hereby designated to be the municipal officer of the city against whom suit may be brought for recovery. (Ord. #18-2005, June 2005)

CHAPTER 7

OPERATIONS AND FINANCIAL MANAGEMENT

SECTION

- 5-701. Balanced cash-basis budget.
- 5-702. Employment of certified municipal finance officer.
- 5-703. Financial management polices and procedures.
- 5-704. Educational programs.

5-701. Balanced cash-basis budget. The board of mayor and aldermen's duty, as construed in Tennessee Code Annotated, § 8-47-101 is to well-manage the finances and operations of the city and to adopt by June 30 of every year a balanced cash-basis budget meeting all obligations like a well-managed municipality and maintain that balanced cash-basis budget throughout the year by monthly monitoring, appropriate amendment, and by only authorizing expenditures if cash is available at the time of authorization. (Ord. #116-2013, Oct. 2013)

5-702. Employment of certified municipal finance officer. The board of mayor and aldermen have a duty to employ as the chief financial officer of the city an individual with the necessary training and qualifications to maintain the city's accounting records in a proper manner and that is a certified municipal finance officer, an exempt individual as defined in Tennessee Code Annotated, title 6, chapter 56 part 4, or is able to meet the qualifications to become a certified municipal finance officer within the statutorily required time period. (Ord. #116-2013, Oct. 2013)

5-703. Financial management policies and procedures. The board of mayor and aldermen have a duty with the city's chief financial officer to develop, implement, execute and monitor effective accounting, budgeting, cash management, human resource, purchasing, risk management, and other financial management policies as well as implementing effective related procedures that will provide adequate internal controls for accounting and reporting, to safeguard the city's assets, and to ensure compliance with the State Constitution, state statutes, the city's charter, and federal laws. (Ord. #116-2013, Oct. 2013)

5-704. Educational programs. The board of mayor and aldermen has a duty to develop and maintain sufficient knowledge to well-manage the finances and operations of the city through the educational programs offered through The University of Tennessee's Municipal Technical Advisory Service. (Ord. #116-2013, Oct. 2013)

CHAPTER 8

PURCHASING POLICY

SECTION

5-801. Purchasing policy.

5-801. Purchasing policy. The City of Jellico shall establish a purchasing policy in accordance with all applicable state law and guidelines issued by the Tennessee Comptroller. Said policy is available in the recorder's office.

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.

CHAPTER 1

POLICE AND ARREST

SECTION

- 6-101. Police and fire committee.
- 6-102. Dismissal and appeal of police officers.
- 6-103. General regulations and rules of conduct.
- 6-104. Prohibited conduct.
- 6-105. Police officers subject to police chief's orders.
- 6-106. Police officers to preserve law and order, etc.
- 6-107. Police officers to wear uniforms and be armed.
- 6-108. When police officers to make arrests.
- 6-109. Police department records.

6-101. Police and fire committee. The committee shall receive and duly consider all complaints concerning these departments, and whenever any complaint shall seem well founded, the committee shall bring the same to the attention of the council accompanied by all statements and reports as to the facts. (1968 Code, § 1-401, modified)

6-102. Dismissal and appeal of police officers. The police and fire committee shall have power to discharge any member of the police force for non-performance of duty or for violation of any regulation, rule of conduct, ordinance, or state law; provided, however, that if the aggrieved party feels that the action taken by the committee is unjustified, he may appeal to the next regular meeting of the board of mayor and aldermen. (1968 Code, § 1-402)

6-103. General regulations and rules of conduct. All members of the police force shall, so far as possible, familiarize themselves with the city, e.g., streets, buildings, localities, etc. They shall be courteous and obliging; they shall make arrests without the use of any violent or profane language; they shall treat all prisoners humanely; and they shall not use violence in making arrests, except where it becomes absolutely necessary. (1968 Code, § 1-403)

6-104. Prohibited conduct. If any police officer shall visit any house of ill fame or lewdness, or any inmate thereof, or enter any drinking or gambling establishment, until actually called thereto or therein by and in the discharge of his duty, or shall be guilty of drinking or being under the influence of any spirituous or intoxicating liquors, he shall be promptly and summarily dismissed. Police officers shall especially abstain from engaging in political

discussions or taking any conspicuous part in elections other than to preserve peace at the polls. (1968 Code, § 1-404)

6-105. Police officers subject to police chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1968 Code, § 1-405)

6-106. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Police officers shall also promptly serve any legal process issued by the city court. (1968 Code, § 1-406)

6-107. Police officers to wear uniforms and be armed. All police officers shall wear such uniform and badge as the governing body shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1968 Code, § 1-407)

6-108. When police officers to make arrests. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer in the following cases:

- (1) Whenever he is in possession of a warrant for the arrest of the person.
- (2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.
- (3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1968 Code, § 1-408)

6-109. 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 police officers.
- (3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1968 Code, § 1-411)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE CODE.
2. BUREAU OF FIRE PREVENTION.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE CITY LIMITS.
5. FIREWORKS.

CHAPTER 1

FIRE CODE¹

SECTION

- 7-101. Fire code(s) adopted.
 7-102. Available in recorder's office.
 7-103. Violations and penalty.

7-101. Fire code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the International Fire Code,² 2018 edition, and NFPA 101 Life Safety Code,³ 2018 edition, and all subsequent amendments or additions to said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the fire code. Said fire code is shall be controlling within the corporate limits.

7-102. Enforcement. The fire 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.

¹Municipal code reference

Building, utility and residential codes: title 12.

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

³Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

7-103. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline.

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

7-105. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the fire code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

7-106. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the fire code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

BUREAU OF FIRE PREVENTION

SECTION

- 7-201. Establishment of the bureau.
- 7-202. Appointment and qualifications of chief.
- 7-203. Appointment of inspectors.
- 7-204. Annual report.

7-201. Establishment of the bureau. The fire prevention code shall be enforced by the bureau of fire prevention in the fire department of the City of Jellico, Tennessee, which bureau is hereby established and which shall be operated under the supervision of the chief of the fire department. (1968 Code, § 7-201)

7-202. Appointment and qualifications of chief. The chief in charge of the bureau of fire prevention shall be the chief of the fire department qualified and appointed according to procedures in the City of Jellico Personnel Policy. (1968 Code, § 7-202, modified)

7-203. Appointment of inspectors. The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the board of mayor and aldermen of said city the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and non-members of the fire department, and appointments made after examination shall be for an indefinite term with removal only for cause. (1968 Code, § 7-203)

7-204. Annual report. A report of the bureau of fire prevention shall be made annually and transmitted to the board of mayor and aldermen of the municipality; it shall contain all proceedings under this code, with such statistics as the chief of the fire department may wish to include therein; the chief of the fire department shall also recommend any amendments to the code which, in his judgment, shall be desirable. (1968 Code, § 7-204)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

- 7-301. Police and fire committee.
- 7-302. Establishment, equipment, and membership.
- 7-303. Objectives.
- 7-304. Appointment and qualifications of chief.
- 7-305. Records and reports.
- 7-306. Qualifications, tenure, and compensation of members.
- 7-307. Organization, rules, and regulations.
- 7-308. Chief responsible for training.
- 7-309. Storage and use of equipment.
- 7-310. Chief to be assistant to state officer.
- 7-311. Rate and method of pay for volunteer firefighters.

7-301. Police and fire committee. The committee shall receive and duly consider all complaints concerning these departments, and whenever any complaint shall seem well founded, the committee shall bring the same to the attention of the board of mayor and aldermen accompanied by all statements and reports as to the facts. (1968 Code, § 7-301, modified)

7-302. Establishment, equipment, and membership. (1) There is hereby established a fire department to be supported and equipped from appropriations by the governing body of the municipality. All apparatus, equipment, and supplies shall be purchased by or through the municipality and shall be and remain the property of the municipality. The fire department shall consist of a chief and one assistant chief and such other officers and members as the chief and the governing body may, from time to time, deem necessary for the effective operation of said department.

(2) The chief of the fire department may appoint non-paid volunteer members in such number as he shall deem necessary, and shall prescribe the duties of all such volunteers. All volunteers shall be authorized to attend drills and calls as necessary for the efficient operation of the department.

(3) Non-paid volunteers shall not be deemed employees of the municipality except for purposes of the Tennessee Governmental Tort Liability Act. (1968 Code, § 7-302, as amended by Ord. #13-2002, Oct. 2002, modified)

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

¹Municipal code reference

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

- (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 assist all legal authorities in suppressing the crime of arson and the causes, origin, and circumstances of all fires.
- (8) To preserve law and order within the municipality during the course of an emergency and for this purpose firefighters shall have the same powers as police officers. (1968 Code, § 7-303)

7-304. Appointment and qualifications of chief. The chief will be appointed according to procedures in the City of Jellico Personnel Policy. The chief shall be qualified by training and experience and shall be capable both mentally and physically, of performing the duties of the position. The chief may be removed in accordance with the regulations of the City of Jellico Personnel Policy.

7-305. Records and reports. The chief shall make written and/or verbal reports as the governing body may require. He shall keep adequate records of all fires, inspections, active and false alarms, apparatus, equipment, personnel and other pertinent information about the work and activities of the fire department. He shall report monthly to the recorder-treasurer the number and place of fires during the preceding month, false alarms, and any other activities in which the service of the fire department was required; and he shall also report any changes in personnel of the fire department. (1968 Code, § 7-305)

7-306. Qualifications, tenure, and compensation of members. The members of the fire department shall consist of such persons as may be appointed by the chief and approved by the police and fire committee and the governing body; they should be able-bodied male citizens residing within the city limits; preferably they should be property owners whose business activities are normally within the city; and they should be accessible by rapid communication. Any member of the fire department may be suspended or discharged by the chief at any time he may deem such action necessary for the good of the department; however, any member so discharged or suspended shall have the right of appeal as provided for the chief in § 7-304 of this code. All personnel of the fire department shall receive such compensation for their services as the governing body from time to time may prescribe. (1968 Code, § 7-306)

7-307. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite

assignments to individuals, may issue a badge or other insignia to show rank of individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the department. (1968 Code, § 7-307)

7-308. Chief responsible for training. The chief shall conduct suitable drills and instructions in the operation and handling of equipment, first aid and rescue work, salvage, a study of the buildings of the city, fire prevention, water supplies and all other matters generally considered essential to good firemanship and safety of life and property pertaining to fire. (1968 Code, § 7-308)

7-309. Storage of equipment. All equipment of the fire department shall be conveniently housed in such places as designated by the governing body, and all auxiliary equipment shall be housed where designated by the chief. All such places shall be under the direct supervision and control of the chief and no persons, other than firefighters, city officials, or other authorized personnel, shall enter said places or handle or otherwise interfere with the equipment. (1968 Code, § 7-309, as amended by Ord. #2, Jan. 1971)

7-310. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1968 Code, § 7-310)

7-311. Rate and method of pay for volunteer firefighters. (1) The rate of pay for volunteer firefighters shall be established in the annual budget.

(2) Volunteer firefighters responding to a fire alarm shall be paid a minimum of two (2) hours pay and, thereafter, at the regular hourly rate of pay for all time in excess of the first two (2) hours.

(3) The two (2) hours minimum pay, as set forth in subsection (2) above, shall not apply to false alarms or drills. (Ord. #1-1997, March 1997, modified)

CHAPTER 4

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

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

7-402. Rates for subscription of out of town fire service.

7-401. Equipment and personnel to be used only within corporate limits. No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless such fire is on city owned 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 city as to endanger the city property or unless expressly authorized in writing by the municipal governing body. Provided, however, fire protection will be furnished to property outside the corporate limits subject to the following limitations and conditions:

(1) The person or persons desiring fire protection will pay such annual fee as the board of mayor and aldermen shall provide from time to time by resolution.

(2) Fire protection will commence five (5) days after payment of said annual fee.

(3) Emergencies occurring within a reasonable distance of the city, whereby confirmed information indicates that life may be saved by a prompt response of the fire department.

(4) Emergencies in other cities when a mutual aid agreement has been entered into and approved by the governing bodies. Response is limited only to calls from the officials as designated in said mutual aid agreement.

(5) In no event the city fire department respond to a request for assistance to property outside the corporate limits when such response would reduce the level of fire protection within the corporate limits to an unsafe level. This determination shall be made by the fire chief and it shall be final.

(6) In the event the city fire department responds to a request for assistance to property outside the corporate limits and subsequently the level of protection with the corporate limits becomes unsafe, then the equipment and personnel shall be ordered to return to the city. This determination shall be made by the fire chief and it shall be final. (1968 Code, § 7-309, as amended by Ord. #2, Jan 1971)

7-402. Rates for subscription of out of town fire service.

(1) Rates:

(a) Residential subscribers \$100.00;

(b) Commercial subscribers \$200.00.

(2) Distance limited. Rates shall be effective for a distance of not more than five (5) miles from the nearest Jellico Fire Department fire station to the actual structure. Distance shall be measured in road miles.

(3) Current subscribers to receive service. Subscribers under previous rates shall receive service if:

(a) Subscriber has previously had a subscription to the fire service;

(b) Subscriber has paid such subscription fee under the prior rates; and

(c) Such subscription was paid prior to the initial introduction of this section.

Then such subscriber shall receive such fire service until their annual due date, without regard to the distance limitations imposed above, until their next annual due date.

Beginning with the annual due date following the final passage of this section (June 2003), these distance limitations shall be imposed on all subscribers.

(4) Grace period. There will be no response to any request for service out of town for a subscriber more than seven (7) days after the annual subscription due date. (Ord. #06-2003, June 2003)

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Definitions.
- 7-502. Prohibitions.
- 7-503. Activities declared public nuisance.
- 7-504. Prohibitions in this chapter are additional and supplemental.
- 7-505. Manufacture of fireworks.
- 7-506. Privilege tax and license.
- 7-507. Packaging and labeling of fireworks.
- 7-508. Retail establishments from which fireworks may be sold.
- 7-509. Sales to minors prohibited.
- 7-510. Violations and penalty.

7-501. Definitions. The following terms, when used in this chapter shall have the following meanings for the purposes of this chapter.

(1) "Fireworks" shall include all articles of fireworks included in the definition of special fireworks and of I.C.C. Class C common fireworks as contained in Tennessee Code Annotated, title 68, chapter 104, including, without limitation, the permissible terms of fireworks listed in Tennessee Code Annotated, § 68-104-108 sparklers, smoke bombs, and smoke sticks. The term shall not include items specifically excepted from the application of Tennessee Code Annotated, chapter 104, § 68-104-113 or fireworks for public displays authorized by special permits obtained pursuant to the provisions of Tennessee Code Annotated, § 68-104-107.

(2) "Person" shall mean an individual, a firm, a corporation, or any other entity. As used herein, person shall include not only the person who physically performs any act prohibited by this chapter, but also any person who encourages, participates in, or knowingly allows any such prohibited act.

(3) "Public place" shall mean any place open to the general public or any substantial part of the general public, including without limitation, public streets, public sidewalks, parking lots, parks, playgrounds, athletic fields, hotels, motels, indoor and outdoor swimming pools open to the public or to business guests or patrons, schools, churches, museums, auditoriums, public buildings, theaters, indoor and outdoor moving picture establishments, taxis and other public conveyances, offices, stores, banks, craft shops, shopping centers, amusement places, recreational centers, restaurants, cafeterias, eating places, utility properties, automobile service stations, and manufacturing, commercial, professional and recreational businesses of all kinds, together with all property appurtenant thereto or used in connection therewith. (Ord. #4, May 1985)

7-502. Prohibitions. It shall be unlawful for any person to use any fireworks in any public place in the City of Jellico.

(1) Any person who sells any fireworks, the use of which in any public place in the City of Jellico is prohibited by this chapter, shall notify each purchaser thereof at or prior to the time of such purchase that the use thereof in any public place in the City of Jellico is illegal. Such notice shall be sufficient if given by any one (1) or more of the following methods:

By a clearly visible and legible written or printed notice that the use of the fireworks in any public place in the City of Jellico is illegal, such notice either

(a) To be attached to the fireworks being sold; or

(b) To be posted at or near each place where fireworks are displayed for sale or are sold, the posted notice to be displayed in such manner that prospective purchasers cannot fail to observe the notice at or prior to the time the fireworks are bought.

(2) Any other form of notification reasonably calculated to notify each purchaser that the use of the fireworks being sold is illegal in any public place in the City of Jellico. (Ord. #4, May 1985)

7-503. Activities declared public nuisance. The activities made unlawful by this chapter be and the same are hereby declared to be public nuisances, which shall be subject to abatement by any and all remedies available generally for the abatement of public nuisances. (Ord. #4, May 1985)

7-504. Prohibitions in this chapter are additional and supplemental. The prohibitions contained in this chapter shall be in addition and supplemental to the prohibitions contained in any existing chapters of the City of Jellico, and shall in no manner repeal, modify or interfere with the prohibitions contained in any such existing chapters. (Ord. #4, May 1985)

7-505. Manufacture of fireworks. The manufacture of fireworks within the City of Jellico shall be prohibited. (Ord. #4, May 1985)

7-506. Privilege tax and license. Any establishment which is properly permitted by the State of Tennessee to sell fireworks at retail shall be required to pay a privilege tax to the city for the privilege of being allowed to sell fireworks within the city. Each establishment so allowed shall pay a privilege tax to the City of Jellico in the amount of two thousand dollars (\$2,000.00) per annum. This tax shall be paid upon the initial obtaining of a state permit and shall be renewed annually on the anniversary date thereof. Payment of this tax shall result in the issuance of a privilege tax license. Said license may be revoked as provided in § 7-509. (Ord. #4, May 1985)

7-507. Packaging and labeling of fireworks. Fireworks sold at retail within the City of Jellico shall be placed in a bag or container prior to being given to the purchaser. (Ord. #4, May 1985)

7-508. Retail establishments from which fireworks may be sold.

(1) Fireworks sold at retail within the City of Jellico shall be sold only within the physical confines of a structure or building permanent in nature and secure against unauthorized entry and affixed to the ground and with permanent electrical service and otherwise in compliance with applicable safety codes. No temporary trailers, mobile homes, carts, wagons, tents, or other such movable structures shall be permitted to sell fireworks within the City of Jellico unless they shall have been installed upon the ground in such manner as to be permanent structures in compliance with applicable zoning, building, and safety codes; a structure erected or installed upon premises located within the City of Jellico shall be deemed a temporary structure unless it remains so installed at such premises for a period of six (6) consecutive months.

(2) Provided, however, that any retail establishment which otherwise meets the requirements of this title 7, and which has been engaged in the full time sale of fireworks for at least twelve (12) prior consecutive months, shall be permitted to display and sell fireworks in a temporary trailer, tent, or other such moveable structure located upon the same property already permitted for said retail establishment. The use of a temporary structure shall be in addition to, and not in lieu of, the sale of fireworks from the permanent structure which has been permitted in accordance with this title 7. The temporary structure authorized in this section shall meet all applicable building and safety codes. The temporary structure authorized in this section shall be used only during two (2) periods of time each year, to wit:

(a) A period beginning thirty (30) days before and ending thirty (30) days after July 4th (the Fourth of July); and

(b) A period beginning thirty (30) days before and ending thirty (30) days after January 1st (New Year's Day). (Ord. #4, May 1985, as amended by Ord. #2-1996, May 1996)

7-509. Sales to minors prohibited. Fireworks shall not be sold to persons under twelve (12) years of age unless they are accompanied by an adult parent or guardian who shall be responsible for the purchase thereof. Retail establishments found guilty of selling fireworks to minors under twelve (12) years of age in violation of this section shall be subject to a fine in the amount of not more than fifty dollars (\$50.00) per offense and in addition, may be placed on probation for a period of time not to exceed one (1) year for a first offense. (Ord. #4, May 1985, modified)

7-510. Violations and penalty. Any person guilty of the violation of any of the provisions of this chapter shall upon conviction be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00). (Ord. #4, May 1985)

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

1. INTOXICATING LIQUORS.
2. BEER.
3. MISCELLANEOUS OFFENSES.

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

- 8-101. Definitions.
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- 8-122. Inspections generally.
- 8-123. Violations and penalty.

¹State law reference

Tennessee Code Annotated, title 57.

8-101. Definitions. Whenever used in this title, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Alcoholic beverage." Alcoholic beverage means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, and wine capable of being consumed by a human being other than medicine or beer defined pursuant to *Tennessee Code Annotated*, § 57-5-101. Alcoholic beverage also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol irrespective of alcoholic content. Products or beverages including beer, containing less than one-half percent (1/2%) alcohol by volume, other than wine as defined in this section, shall not be considered alcoholic beverage and shall not be subject to regulation or taxation pursuant to this chapter unless specifically provided.

(2) "Applicant." A person applying for a local liquor store privilege license or a certificate of compliance, as the context provides.

(3) "Applicant group." More than one (1) person joining together to apply for a local liquor store privilege license or certificate of compliance, as the context provides, to operate a single liquor store pursuant to the same application.

(4) "Application." The form or forms or other information an applicant or applicant group is required to file with the city in order to attempt to obtain a local liquor store privilege license or certificate of compliance, as the context provides.

(5) "Certificate of compliance." The certificate required in Tennessee Code Annotated, § 57-3-208, or § 57-3-213 as the same may be amended, supplemented or replaced, and subject to the provisions set forth in this chapter for issuance of such a certificate.

(6) "City." The city is the City of Jellico, Tennessee.

(7) "Co-licensees." Persons who together hold a single local liquor store privilege license for a single liquor store.

(8) "Federal statutes." The statutes of the United States now in effect or as they may hereafter be changed.

(9) "Inspection fee." The monthly fee a licensee is required by this chapter to pay, the amount of which is determined by a percentage of the gross purchase price of all alcoholic beverages acquired by the licensee for retail sale from any wholesaler or any other source. In the event of co-licensees holding a local liquor store privilege license for a single liquor store such inspection fee shall be the same as if the local liquor store privilege license were held by a single licensee.

(10) "License fee." The annual fee a licensee is required by this chapter to pay

prior to the time of the issuance or renewal of a local liquor store privilege license. In the event of co-licensees holding a local liquor store privilege license for a single liquor store, only one (1) license fee is required.

(11) "Licensee." The holder or holders of a local liquor store privilege license. In the event of co-licensees, each person who receives a certificate of compliance and local liquor store privilege license shall be a licensee subject to the rules and regulations herein.

(12) "Liquor store." The building or part of a building where a licensee conducts any of the business authorized by the local liquor store privilege license and state liquor license held by such licensee.

(13) "Local liquor store privilege license." A local liquor store privilege license issued under the provisions of this chapter for the purpose of authorizing the holder or holders thereof to engage in the business of selling alcoholic beverages at retail in the city at a liquor store. Such a local liquor store privilege license will only be granted to a person or persons who has or have a valid state liquor retailer's license. One (1) local liquor store privilege license is necessary for each liquor store to be operated in the city.

(14) "Manufactured." A structure, transportable in one (1) or more sections, and which is built on a permanent chassis and designed to be used as a dwelling, office or business facility with or without permanent foundation.

(15) "Person." Person means any natural person as well as any corporation, limited liability company, partnership firm or association or any other legal entity recognized by the laws of the State of Tennessee.

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

(17) "State law, rules and regulations." All applicable laws, rules and regulations of the State of Tennessee applicable to alcoholic beverages as now in effect or as they may hereafter be changed including, without limitation, the local option liquor rules and regulations of the Tennessee Alcoholic Beverage Commission.

(18) "State liquor retailer's license." A license issued by the alcoholic beverage commission of the State of Tennessee pursuant to Tennessee Code Annotated, § 57-3-201, et seq., permitting its holder to sell alcoholic beverages at retail in Tennessee.

(19) "Wholesaler." Wholesaler means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of this chapter.

(20) "Wine." Wine means the produce of normal alcoholic fermentation of juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climactic, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. (Ord. #11-19-2020, Dec. 2020)

8-102. 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 city except as provided by Tennessee Code Annotated, title 57. (Ord. #11-19-2020, Dec. 2020)

8-103. Application for certificate. Before any certificate, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any aldermen, an application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence in the city.
- (3) Occupation or business and length of time engaged in such occupation or business.
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.
- (5) If employed, the name and address of employer.
- (6) If in business, the kind of business and location thereof.
- (7) The location of the proposed store or business for the sale of alcoholic beverages.
- (8) The name and address of the owner of the store.
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.
- (10) No retailer's license shall be issued to a person who is an elected official of the City of Jellico or a person who has held an elected office with the City of Jellico within two (2) years of the date of application.
- (11) The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation.
- (12) Each application shall be accompanied by a non-refundable three hundred dollar (\$300.00) application and investigation fee. Each application shall further be accompanied by a non-refundable background check fee of twenty-nine dollars (\$29.00) for each person/owner designated in said application. The original application shall be accompanied by two (2) copies of said original application. (Ord. #11-19-2020, Dec. 2020)

8-104. Applicant to agree to comply with laws. The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws, ordinances of the City of Jellico, and rules and regulations of

the Tennessee Alcoholic Beverage Commission of the state for sale of alcoholic beverages. (Ord. #11-19-2020, Dec. 2020)

8-105. Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of compliance may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board. (Ord. #11-19-2020, Dec. 2020)

8-106. Action on application. Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of mayor and aldermen within thirty (30) days of the date each application was filed. The board of mayor and aldermen may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and aldermen. (Ord. #11-19-2020, Dec. 2020)

8-107. Residency requirement. The applicant for a certificate of compliance shall have been a bona fide resident of Campbell County, Tennessee for not less than one (1) year at the time his application is filed. If the applicant is a partnership or a corporation, if the applicant is a corporation the corporation must have an established a bona fide business in Campbell County, Tennessee that has been in operation not less than one (1) year at the time the application is filed. (Ord. #11-19-2020, Dec. 2020)

8-108. Applicants for certificate who have criminal record. No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (Ord. #11-19-2020, Dec. 2020)

8-109. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the City of Jellico. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise. (Ord. #11-19-2020, Dec. 2020)

8-110. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for commercial purposes. (Ord. #11-19-2020, Dec. 2020)

8-111. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public. (Ord. #11-19-2020, Dec. 2020)

8-112. Limitation on number of retailers. No more than two (2) retail licenses for the sale of alcoholic beverages will be issued under this chapter for package stores and no more than ten (10) retail licenses for alcoholic beverages to be sold for consumption on the premises of the retail seller will be issued. (Ord. #11-19-2020, Dec. 2020)

8-113. Inspection fee. (1) The City of Jellico hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city.

(2) Collection. Collection of such inspection fee shall be made by the wholesaler or other source vending to the licensee at the time the sale is made to the licensee. Payment of all such records shall be preserved for a period of at least fifteen (15) months unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this section.

(3) Reports. The city recorder shall prepare and make available to each wholesaler and other source vending alcoholic beverages to licensee's sufficient forms for the monthly report of inspection fees payable by such licensee making purchases from such wholesaler or other source. Such wholesaler shall timely complete and return the forms and the required information and inspection fees within the time specified above.

(4) Failure to pay fees. The failure to pay the inspection fees and to make the required reports accurately and within the time required by this chapter shall, at the sole direction of the city manager, be cause for suspension of the offending licensee's local liquor store privilege license for as much as thirty (30) days and, at the sole discretion of the city council, be cause for revocation of such local liquor store privilege license. Each such action may be taken by giving written notice thereof to the licensee, no hearing with respect to such an offense being required. If a licensee has his or her license revoked,

suspended or otherwise removed and owes the city inspection fees at the time of such suspension, revocation, or removal the city attorney may timely file the necessary action in a court of appropriate jurisdiction for recovery of such inspection fees. Further, each licensee who fails to pay or have paid on his or her behalf the inspection fees imposed hereunder shall be liable to the city for a penalty on the delinquent amount due in an amount of ten percent (10%) of the inspection fee. 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 Jellico, Tennessee. It is the intent of the Board of Mayor and Alderman of the City of Jellico that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in the City of Jellico, the same as if said code sections were copied herein verbatim. (Ord. #11-19-2020, Dec. 2020)

8-114. 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 to be paid to the City of Jellico annually upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Jellico of alcoholic beverages for consumption on the premises where sold. (Ord. #11-19-2020, Dec. 2020)

8-115. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate, or association which has received a license to sell alcoholic beverages in the City of Jellico for on premises consumption, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding the provisions of the ordinances of the City of Jellico, qualify to receive a beer permit from the city upon compliance of all Jellico beer permit requirements. (Ord. #11-19-2020, Dec. 2020)

8-116. 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. (Ord. #11-19-2020, Dec. 2020)

8-117. Licensee responsible for officers and agents. Each licensee shall be responsible for all acts of such licensee as well as the acts of a co-licensee, and acts of the licensee's officers, employees, agents and representatives so that any violation of this chapter by any co-licensee, officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (Ord. #11-19-2020, Dec. 2020)

8-118. Consumption of alcoholic beverages on premises. Facilities or businesses with specific statutory authority to sell intoxicating liquor to be consumed on the premises or within the boundaries of such location shall be authorized to sell or serve alcoholic beverages on the premises of such facility as permitted by Tennessee Code Annotated, § 57-4-102. 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 code when such sales are conducted within the corporate limits of the City of Jellico, Tennessee. It is the intent of the board of mayor and aldermen that the Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in the City of Jellico, Tennessee, the same as if the code sections were copied herein verbatim. (Ord. #11-19-2020, Dec. 2020)

8-119. 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 City of Jellico shall remit annually to the city recorder the appropriate tax described in § 8-103. Such payments shall be remitted within thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (Ord. #11-19-2020, Dec. 2020)

8-120. Location of liquor store. It shall be unlawful for any person to operate or maintain a liquor store for the retail sale of alcoholic beverages in the city unless at a location approved by city council. Retail liquor store shall be located within a commercial zone as appears on the official zoning map of the City of Jellico on the date of application. Such liquor store shall not be located within three hundred feet (300') of any church or school or one hundred feet (100') of any residential structure as measured along a straight line from the nearest property lien of any such establishment to the front door of the liquor store. No liquor store shall be located where the operation of a liquor store at the premises contemplated by an application would unreasonably interfere with public health, safety or morals. (Ord. #11-19-2020, Dec. 2020)

8-121. Limitations on building containing liquor store. All liquor stores shall be a permanent type of construction in a material and design approved by the city planning commission. No liquor store shall be located in a manufactured or other movable or prefabricated type of building. All liquor stores shall have night light surrounding the outside of the premises and shall be equipped with a functioning burglar alarm system on the inside of the

premises. The minimum square footage of the liquor store display area shall be one thousand (1,000) square feet. Full, free and unobstructed vision shall be afforded to and from the street and public highway to the interior of the liquor store by way of large windows in the front and to the extent practical to the sides of the building containing the liquor store. All liquor stores shall be subject to applicable zoning, land use, building and life safety regulations, as adopted within the City of Jellico Code, unless specifically stated otherwise herein. (Ord. #11-19-2020, Dec. 2020)

8-122. Inspections generally. The the city recorder, the city finance director, the chief of police or the authorized representatives or agents of any of them are authorized to examine the premises, books, papers and record of any liquor store at any of them are authorized to examine the premises, books, papers and records of any liquor store at any time the liquor store is open for business for the purpose of determining whether the provisions of this chapter are being observed. Refusal to permit such examination shall be a violation of this chapter and shall constitute sufficient reason for revocation of the local liquor store privilege license of the offending licensee or for the refusal to renew the local liquor store privilege license of the offending licensee. (Ord. #11-19-2020, Dec. 2020)

8-123. Violations and penalty. (1) Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not less than fifty dollars (\$50.00). Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission, together with petition that all licenses be revoked, pursuant to the provisions of Tennessee Code Annotated, title 57, chapter 3, and the rules and regulations of said commission; and,

(2) Any violation of the provisions of this chapter, in addition to the penalty provided for in subsection (1) above, the certificate of compliance and authority to operate a business for the sale of alcoholic beverages may be revoked according to the provision of applicable state law, rules or regulations of the Tennessee Alcoholic Beverage Commission; and

(3) Any violation of the provisions of this chapter may constitute grounds for the refusal of the renewal of any certificate of compliance issued by the City of Jellico. (Ord. #11-19-2020, Dec. 2020)

CHAPTER 2

BEER

SECTION

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

8-201. Beer board established. (1) There is hereby established a beer board to regulate and supervise the sale, distribution, manufacture and storage of beer within the territorial boundaries of the municipality in accordance with the provisions and conditions of this chapter.

(2) The beer board shall be composed of the mayor and four (4) other members who are residents of the municipality and who shall be appointed by the mayor. Appointees to the beer board may or may not be members of the municipal legislative body. Appointment to the beer board shall be for a term of two (2) years and all members shall serve without compensation. The chairman shall be annually elected by the board from among its members.

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 adequate notice thereof to each member. The board may adjourn a meeting at any time to another time and place.

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date

of each meeting; names of the board members present and absent; names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

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

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

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

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

8-208. Privilege tax.³ There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or

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

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

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

manufacture of beer shall remit the tax each successive January 1 to the City of Jellico, 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.

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off premises consumption. A single permit may be issued for on 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 in his permit.¹

8-210. Limitation on number of permits. The number of licenses for the sale of beer shall be limited to ten (10). Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased.

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

¹State law reference

Tennessee Code Annotated, § 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten (10) years. Under Tennessee Code Annotated, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under Tennessee Code Annotated, § 16-18-302, city courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City courts are thus prohibited from enforcing ordinances making violations of Tennessee Code Annotated, § 57-5-301(a) a local offense.

be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, residence, 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 school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period.

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

1. Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.¹
2. Make or allow the sale of beer between the hours of 12:00 midnight and 6:00 A.M. on weekdays and between the hours of 12:00 midnight Saturday and 12:00 noon on Sunday.²
3. Allow any person under twenty-one (21) years of age to loiter in or about his place of business.³
4. Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
5. Allow drunk persons to loiter about his premises.
6. Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content higher than beer.
7. Fail to provide and maintain separate sanitary toilet facilities for men and women.

8-213. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the

¹State law reference

Tennessee Code Annotated, § 1-3-113(a).

²State law reference

Tennessee Code Annotated, § 57-5-106(a), for cities with liquor by the drink, the Alcoholic Beverage Commission sets the hours of operation, which may only be modified by ordinance to reduce hours on Sundays under Tennessee Compilation Rules and Regulations § 0100-01-.03(2).

³State law reference

Tennessee Code Annotated, § 57-5-106(a).

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

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

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

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

(2) Penalty, revocation or suspension.¹ The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

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

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before

¹State law reference

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

the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

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

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

8-216. Violations and penalty. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

¹State law reference

Tennessee Code Annotated, § 57-5-607.

CHAPTER 3

MISCELLANEOUS OFFENSES

SECTION

8-301. Violations by and relating to persons under the age of 21 years.

8-302. Consumption or open container in motor vehicle.

8-303. Consumption or open container in public places.

8-304. Public intoxication.

8-301. Violations by and relating to persons under the age of 21 years. (1) It shall be unlawful within the territorial boundaries of the municipality for any person under the age of twenty-one (21) years to:

(a) Possess, transport, or consume any alcoholic beverage as defined by Tennessee Code Annotated § 57-5-101;

(b) Purchase or attempt to purchase any alcoholic beverage as defined by section Tennessee Code Annotated § 57-5-101; or

(c) Knowingly make a false statement or exhibit false identification to the effect that he or she is twenty-one (21) years of age or older to any person engaged in the sale of alcoholic beverages for the purpose of purchasing or obtaining the same.

(2) It shall be unlawful within the territorial boundaries of the municipality for any person over the age of twenty-one (21) years to purchase any alcoholic beverage as defined by Tennessee Code Annotated § 57-5-101 for or at the request of a person under the age of twenty-one (21) years.

(3) Any person who shall violate any of the provisions of this section shall be guilty of a municipal offense, triable before the municipal court and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than fifty dollars(\$50.00) for each such violation.

(4) Any person who shall be found to have violated subsection (1)(a) of this section shall, without regard to the final disposition of such violation have the right to have the record of such violation destroyed after the passage of six (6) months from the date of the violation, without cost to such person, upon motion to the court.

(5) In the case of a person under the age of twenty-one (21) years but eighteen (18) years of age or older found to have violated subsection (1)(a) or subsection (1)(b) of this section, the court, within five (5) working days of the conviction shall prepare and send to the Tennessee Department of Safety, Driver Control Division, an order of denial of driving privileges for the offender.

(6) In the case of a person eighteen (18) years of age or older found to have violated subsection (1)(c) of this section, the offender, in addition to the fine imposed by subsection (3) of this section shall be punished by not more than thirty (30) days community service.

(7) In the case of a person twenty-one (21) years of age or older who shall be found to have violated subsection (2) of this section, the offender, in addition to the fine imposed by subsection (3) of this section shall be punished by not more than thirty (30) days community service.

(8) Nothing hereinabove contained shall be construed so as to prevent the prosecution of any conduct declared by this section to be a municipal offense which conduct would also constitute a violation of the criminal laws of the State of Tennessee, whether misdemeanor or felony, from being charged and prosecuted as a violation of the criminal laws of the State of Tennessee in the appropriate state court. (Ord. #08-2001, Nov. 2001)

8-302. Consumption or open container in motor vehicle.

(1) (a) It shall be unlawful for the operator, or any occupant or passenger of a motor vehicle as defined in Tennessee Code Annotated, § 55-8-101, to consume any alcoholic beverage or possess an open container of any alcoholic beverage while such motor vehicle is being operated upon any public highway, street, boulevard, road, alley or on the premises of any shopping center, trailer park, apartment complex, or any other premises generally frequented by the public at large within the territorial boundaries of the municipality.

(b) For the purposes of this section:

(i) "Open container" means any container containing an alcoholic beverage the contents of which are immediately capable of being consumed or the seal of which has been broken; and

(ii) A motor vehicle is in operation if its engine is operating, whether or not the motor vehicle is moving.

(2) Any person who shall violate any of the provisions of this section shall be guilty of a municipal offense, triable before the municipal court and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than fifty dollars (\$50.00) for each such violation.

(3) Nothing herein contained shall be construed so as to prevent any conduct declared by this section to be a municipal offense and which conduct would also constitute a violation of the criminal laws of the State of Tennessee from being charged and prosecuted as a violation of the criminal laws of the State of Tennessee in an appropriate state court. (Ord. #08-2001, Nov. 2001)

8-303. Consumption or open container in public places.

(1) (a) It shall be unlawful within the territorial boundaries of the municipality, for any person to consume any alcoholic beverage or possess an open container of any alcoholic beverage upon any public highway, street, boulevard, road, alley, or bridge; or upon the grounds of any cemetery, school, park, or playground; or upon the grounds of any church, shopping center or other premises generally frequented by the public at large; or upon any vacant lot located within two hundred feet (200') of any

such public highway, street, boulevard, road, alley, bridge, cemetery, school, park, playground, church, shopping center or other premises frequented by the public at large; or in any vacant or abandoned structure not owned by the person consuming such alcoholic beverage or possessing such open container.

(b) For purposes of this section "open container" means any container containing an alcoholic beverage the contents of which are immediately capable of being consumed or the seal of which has been broken;

(2) Any person who shall violate any of the provisions of this section shall be guilty of a municipal offense, triable before the municipal court and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than fifty dollars (\$50.00) for each such violation.

(3) Nothing herein contained shall be construed so as to prevent the prosecution of any conduct declared by this section to be a municipal offense which conduct would also constitute a violation of the criminal laws of the State of Tennessee from being charged and prosecuted as a violation of the criminal laws of the State of Tennessee in an appropriate state court. (Ord. #08-2001, Nov. 2001)

8-304. Public intoxication. (1) It shall be unlawful for any person to appear in a public place within the territorial boundaries of the municipality while under the influence of any alcoholic beverage or intoxicating substance to the degree that:

- (a) Such person may be endangered;
- (b) There is endangerment to other persons or property; or
- (c) Such person unreasonably annoys other people in the vicinity.

(2) Any person who shall violate any of the provisions of this section shall be guilty of a municipal offense, triable before the municipal court, and upon conviction shall be fined not less nor more than fifty dollars (\$50.00) for each such violation.

(3) Nothing herein contained shall be construed so as to prevent the prosecution of any conduct declared by this section to be a municipal offense which conduct would also constitute a violation of the criminal laws of the State of Tennessee from being charged and prosecuted as a violation of the criminal laws of the State of Tennessee in an appropriate state court. (Ord. #08-2001, Nov. 2001)

TITLE 9**BUSINESS, PEDDLERS, SOLICITORS, ETC.¹****CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, SOLICITORS, ETC.
3. SEXUALLY ORIENTED BUSINESS ORDINANCE.

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

- 9-101. "Going out of business" sales.
9-102. Sidewalk 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. (1968 Code, § 5-101)

9-102. Sidewalk sales. The governing body of the City of Jellico may in its discretion authorize the holding of "sidewalk sales" or other such displays of merchandise or goods held for sale upon the public sidewalks and ways by businesses and merchants at such times and for such periods of time and under such terms, conditions, and restrictions as the governing body may deem proper and consistent with the health, safety, and welfare of the citizens and City of Jellico.

Businesses or merchants wishing to hold a sidewalk sale, will appear at a board meeting requesting to hold such sale stating the date, and time of sale, any merchant or business granted permission will sign application, either by or

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

owner or authorized agent or same. (Ord. #4, Aug. 1980, as amended by Ord. #7,
_____)

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.¹

SECTION

- 9-201. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Restrictions on peddlers and solicitors.
- 9-206. Restrictions on transient vendors.
- 9-207. Display of permit.
- 9-208. Suspension or revocation of permit.
- 9-209. Expiration and renewal of permit.
- 9-210. Violations and penalty.

9-201. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

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

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

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

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

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

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

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

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

(5) "Transient vendor¹" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

9-202. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business.

¹State law references

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

The definition of "transient vendors" is taken from Tennessee Code Annotated, § 62-30-101(3). Note also that Tennessee Code Annotated, § 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated, § 67-4-709(b).

9-203. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor or solicitor, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter.

9-204. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the recorder by each applicant for a permit as a peddler, transient vendor or solicitor, and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

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

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

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

(d) The names and permanent addresses of each person who will make sales or solicitations within the city.

(e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.

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

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

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

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the recorder, the recorder shall submit to the chief of police a copy of the application form and the permit.

9-205. Restrictions on peddlers and solicitors. No peddler, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

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

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

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

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise.

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

9-206. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

9-207. Display of permit. Each peddler, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.

9-208. Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the recorder for any of the following causes:

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

(b) Any violation of this chapter.

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

9-209. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be

issued for six (6) months. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days.

9-210. Violations and penalty. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense.

CHAPTER 3

SEXUALLY ORIENTED BUSINESS ORDINANCE

SECTION

- 9-301. Purpose.
- 9-302. Definitions.
- 9-303. Classification.
- 9-304. License required.
- 9-305. Issuance of license.
- 9-306. Fees.
- 9-307. Inspection.
- 9-308. Expiration of license.
- 9-309. Suspension.
- 9-310. Revocation.
- 9-311. Judicial review.
- 9-312. No transfer of license.
- 9-313. Location restrictions.
- 9-314. Non-conforming uses; amortization.
- 9-315. Additional regulations for adult motels.
- 9-316. Additional regulations for escort agencies.
- 9-317. Additional regulations for nude model studios.
- 9-318. Additional regulations concerning public nudity.
- 9-319. Regulations pertaining to exhibition of sexually explicit films and videos.
- 9-320. Exterior portions of sexually oriented businesses.
- 9-321. Signage.
- 9-322. Sale, use, or consumption of alcoholic beverages prohibited.
- 9-323. Persons younger than eighteen (18) prohibited from entry; attendant required.
- 9-324. Massages or baths administered by person of opposite sex.
- 9-325. Hours of operation.
- 9-326. Exemptions.
- 9-327. Notices.
- 9-328. Injunction.

9-301. Purpose. It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or

to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials. (Ord. #12-2002, Dec. 2012)

9-302. Definitions. (1) "Adult arcade" means 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 (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore" or "adult video store" means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas;" or

(b) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

(c) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

(3) "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

(a) Persons who appear in a state of nudity or semi-nudity; or

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

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

(d) Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

(4) "Adult motel" means a hotel, motel or similar commercial establishment that:

(a) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way that advertises the availability of this adult type of photographic reproductions; or

(b) Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or

(c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty-four (24) hours.

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

(6) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(7) "Director" means the mayor or such persons as he may designate to perform the duties of the director under this chapter.

(8) "Employee" means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.

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

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

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

- (a) The opening or commencement of any sexually oriented business as a new business;
- (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (c) The additions of any sexually oriented business to any other existing sexually oriented business;
- (d) The relocation of any sexually oriented business; or
- (e) A sexually oriented business or premises on which the sexually oriented business is located.

(12) "Licensed day-care center" means a facility licensed by the State of Tennessee, whether situated within the city or not, that is licensed to provide care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

(13) "Licensee" means a person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.

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

(15) "Nudity" or a "state of nudity" means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

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

(17) "Premises" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to § 9-304 of this chapter.

(18) "Semi-nude" or "semi-nudity" means the appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

(19) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nudity.

(20) "Sexually oriented business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(21) "Specified anatomical areas" means:

(a) The human male genitals in a discernibly turgid state, even if fully and opaquely covered;

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

(22) "Specified criminal activity" means any of the following offenses:

(a) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the criminal or penal code of this state, other states, or other countries.

(b) For which:

(i) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(ii) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;

(iii) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period;

(c) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

(23) "Specified sexual activities" means and includes any of the following:

- (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;
- (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (c) Masturbation, actual or simulated; or
- (d) Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

(24) "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on May 1, 1999.

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

- (a) The sale, lease, or sublease of the business;
- (b) The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or
- (c) The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (Ord. #12-2002, Dec. 2012)

9-303. Classification. Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers. (Ord. #12-2002, Dec. 2012)

9-304. License required. (1) It shall be unlawful:

- (a) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the director pursuant to this chapter;
- (b) For any person who operates a sexually oriented business to employ a person to work and/or perform services on the premises of the sexually oriented business, if such employee is not in possession of a valid sexually oriented business employee license issued to such employee by the director pursuant to this chapter;

(c) For any person to obtain employment with a sexually oriented business if such person is not in possession of a valid sexually oriented business employee license issued to such person by the director pursuant to this chapter.

(d) It shall be a defense to subsections (b) and (c) of this section if the employment is of limited duration and for the sole purpose of repair and/or maintenance of machinery, equipment, or the premises.

Violation of any provision within this subsection shall constitute a misdemeanor.

(2) An application for a sexually oriented business license must be made on a form provided by the city. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6"). Prior to issuance of a license, the premises must be inspected by the health department, fire department, building department, and zoning department.

(3) An application for a sexually oriented business employee license must be made on a form provided by the city.

(4) All applicants for a license must be qualified according to the provisions of this chapter. The application may request, and the applicant shall provide, such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established under this chapter. The applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed.

(5) If a person who wishes to own and operate a sexually oriented business is an individual, he must sign the application for a business license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a business license as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a business license as applicant.

(6) Applications for a business license, whether original or renewal, must be made to the director by the intended operator(s) of the enterprise. Applications must be submitted to the office of the director or the director's designee during regular working hours. Application forms shall be supplied by the director and available in the office of the city recorder. The following information shall be provided on the application form:

(a) The name, street address (and mailing address if different) of the applicant(s);

- (b) A recent photograph of the applicant(s);
- (c) The applicant's driver's license number, Social Security number, and/or his/her state or federally issued tax identification number;
- (d) The name under which the establishment is to be operated and a general description of the services to be provided: If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state:
 - (i) The sexually oriented business's fictitious name; and
 - (ii) Submit the required registration documents.
- (e) Whether the applicant, or a person residing with the applicant, has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" as defined in § 9-302(22), and, if so, the "specified criminal activity" involved, the date, place, and jurisdiction of each;
- (f) Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinance from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant is or has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under a sexually oriented business ordinance whose business license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation;
- (g) Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses;
- (h) The single classification of license, as found in § 9-303, for which the applicant is filing;
 - (i) The telephone number of the establishment;
 - (j) The address and legal description of the tract of land on which the establishment is to be located;
- (k) If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the business license is sought, and the date on which the establishment began operations as a sexually oriented business at the location for which the business license is sought;

(l) If the establishment is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the business license). If the expected startup date is to be more than ten (10) days following the date of issuance of the business license, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same;

(m) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in § 9-319 hereunder.

(7) Each application for a business license shall be accompanied by the following:

(a) Payment of the application fee in full;

(b) If the establishment is a State of Tennessee corporation, a certified copy of the articles of incorporation, together with all amendments thereto;

(c) If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;

(d) If the establishment is a limited partnership formed under the laws of the State of Tennessee, a certified copy of the certificate of limited partnership, together with all amendments thereto;

(e) If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto;

(f) Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed;

(g) If the persons identified as the fee owner(s) of the tract of land in item (f) is not also the owner of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the sexually oriented business to have or obtain the use and possession of the tract or portion thereof that is to be used for the sexually oriented business;

(h) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within one thousand feet (1,000') of the property to be certified; the property lines of any established religious

institution/synagogue, school, public park or recreation area, or family-oriented entertainment business within two thousand feet (2,000') of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in licensed use and existence at the time an application is submitted;

(i) Any of items (b) through (h) above shall not be required for a renewal application if the applicant states that the documents previously furnished to the director with the original application or previous renewals thereof remain correct and current.

(8) Applications for an employee license to work and/or perform services in a sexually oriented business, whether original or renewal, must be made to the director by the person to whom the employee license shall issue. Each application for an employee license shall be accompanied by payment of the application fee in full. Application forms shall be supplied by the director. Applications must be submitted to the office of the director or the director's designee during regular working hours. Each applicant shall be required to give the following information on the application form:

(a) The applicant's given name, and any other names by which the applicant is or has been known, including "stage" names and/or aliases;

(b) Age, and date and place of birth;

(c) Height, weight, hair color, and eye color;

(d) Present residence address and telephone number;

(e) Present business address and telephone number;

(f) Date, issuing state, and number of photo driver's license, or other state issued identification card information;

(g) Social Security number; and

(h) Proof that the individual is at least eighteen (18) years old.

(9) Attached to the application form for a license shall be the following:

(a) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police or sheriff's department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(b) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant, in this or any other city, county, state, or country, has ever had any license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name(s) under which the license was sought and/or issued, the name(s) of the issuing or denying jurisdiction, and describe in full the reason(s) for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(c) A statement whether the applicant has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" as defined in § 9-302(22) and, if so, the "specified criminal activity" involved, the date, place and jurisdiction of each.

(10) Every application for a license shall contain a statement under oath that:

(a) The applicant has personal knowledge of the information contained in the application; and

(b) The applicant has read the provisions of this chapter.

(11) A separate application and business license shall be required for each sexually oriented business classification as set forth in § 9-303.

(12) The fact that a person possesses other types of state or city permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business or employee license. (Ord. #12-2002, Dec. 2012)

9-305. Issuance of license. (1) Upon the filing of an application for a sexually oriented business employee license, the director shall issue a temporary license to said applicant. The application shall then be referred to the appropriate city departments for investigation to be made on the information contained in the application. The application process shall be completed within thirty (30) days from the date of the completed application. After the investigation, the director shall issue an employee license, unless it is determined by a preponderance of the evidence that one (1) or more of the following findings is true:

(a) The applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(b) The applicant is under the age of eighteen (18) years;

(c) The applicant has been convicted of a "specified criminal activity" as defined in § 9-302(22) of this chapter;

(d) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule, or regulation, or prohibited by a particular provision of this chapter; or

(e) The applicant has had a sexually oriented business employee license revoked by the city within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as forth in subsection (9) of this section.

(2) A license issued pursuant to subsection (1) of this section, if granted, shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. The employee

shall keep the license on his or her person at all times while engaged in employment or performing services on the sexually oriented business premises so that said license may be available for inspection upon lawful request.

(3) A license issued pursuant to subsection (1) of this section shall be subject to annual renewal upon the written application of the applicant and a finding by the director that the applicant has not been convicted of any "specified criminal activity" as defined in this chapter, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in § 9-306. Non-renewal of a license shall be subject to appeal as set forth in subsection (9) of this section.

(4) If application is made for a sexually oriented business license, the Director shall approve or deny issuance of the license within forty-five (45) days of receipt of the completed application. The director shall issue a license to an applicant unless it is determined by a preponderance of the evidence that one (1) or more of the following findings is true:

(a) An applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(b) An applicant is under the age of eighteen (18) years;

(c) An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually oriented business within the preceding twelve (12) months, or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months;

(d) An applicant or a person with whom the applicant is residing is overdue in payment to the city in taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business;

(e) An applicant or a person with whom the applicant is residing has been convicted of a "specified criminal activity" as defined in § 9-302(22);

(f) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building department as being in compliance with applicable laws and ordinances;

(g) The license fee required under this chapter has not been paid;

(h) An applicant of the proposed establishment is in violation of or is not in compliance with one (1) or more of the provisions of this chapter.

(5) A license issued pursuant to subsection (4) of this section, if granted, shall state on its face the name of the person or persons to whom it is

granted, the expiration date, the address of the sexually oriented business, and the § 9-303 classification for which the license is issued. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

(6) The health department, fire department, building department and zoning department shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the completed application by the director. The certification shall be promptly presented to the director.

(7) A sexually oriented business license shall issue for only one (1) classification, as set forth in § 9-303.

(8) In the event that the director determines that an applicant is not eligible for a sexually oriented business license, the applicant shall be given notice in writing of the reasons for the denial within forty five (45) days of the receipt of the completed application by the director, provided that the applicant may request, in writing at any time before the notice is issued, that such period be extended for an additional period of not more than ten (10) days in order to make modifications necessary to comply with this chapter.

(9) An applicant may appeal the decision of the director regarding a denial to the board by filing a written notice of appeal with the city recorder within fifteen (15) days after service of notice upon the applicant of the director's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The director may, within fifteen (15) days of service upon him of the applicant's memorandum, submit a memorandum in response to the memorandum filed by the applicant on appeal to the board. After reviewing such memoranda, as well as the director's written decision, if any, and exhibits submitted to the director, the board shall vote either to uphold or overrule the director's decision. Such vote shall be taken within twenty-one (21) calendar days after the date on which the city recorder receives the notice of appeal. However, all parties shall be required to comply with the director's decision during the pendency of the appeal. Judicial review of a denial by the director and board may be made pursuant to § 9-311 of this chapter.

(10) A license issued pursuant to subsection (4) of this section shall be subject to annual renewal upon the written application of the applicant and a finding by the director that the applicant has not been convicted of any "specified criminal activity" as defined in this chapter, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in § 9-306. (Ord. #12-2002, Dec. 2012)

9-306. Fees. The annual fee for a sexually oriented business license, whether new or renewal, is two thousand dollars (\$2,000.00). The annual fee for

a sexually oriented business employee license, whether new or renewal, is five hundred dollars (\$500.00). These fees are to be used to pay for the cost of the administration and enforcement of this chapter. A sexually oriented business license shall be valid from July 1 in the year of issue until June 30 of the following year. License fees shall not be pro-rated. (Ord. #12-2002, Dec. 2012)

9-307. Inspection. (1) An applicant or licensee shall permit representatives of the police department, sheriff's department, health department, fire department, building department, or other city or state departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is open for business.

(2) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he/she refuses to promptly permit such lawful inspection of the premises. (Ord. #12-2002, Dec. 2012)

9-308. Expiration of license. (1) Each license shall expire on June 30 following the date of issuance and may be renewed only by making application as provided in § 9-304. Application for renewal should be made at least forty-five (45) days before the expiration date. When application is made less than forty-five (45) days before the expiration date, the expiration of the license will not be affected.

(2) When the director denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. (Ord. #12-2002, Dec. 2012)

9-309. Suspension. The director shall suspend a license for a period not to exceed thirty (30) days if he determines that licensee or an employee of licensee has:

- (1) Violated or is not in compliance with any section of this chapter;
- (2) Operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or controlled substances;
- (3) Refused to allow prompt inspection of the sexually oriented business premises as authorized by this chapter;
- (4) With knowledge, permitted gambling by any person on the sexually oriented business premises. (Ord. #12-2002, Dec. 2012)

9-310. Revocation. (1) The director shall revoke a license if a cause of suspension in § 9-309 occurs and the license has been suspended within the proceeding twelve (12) months.

- (2) The director shall revoke a license if he determines that:
 - (a) A licensee gave false or misleading information in the material submitted during the application process;

(b) A licensee, or a person with whom the licensee is residing, was convicted of a "specified criminal activity" on a charge that was pending prior to the issuance of the license;

(c) A licensee has, with knowledge, permitted the possession, use, or sale of controlled substances on the premises;

(d) A licensee has, with knowledge, permitted the sale, use, or consumption of alcoholic beverages on the premises;

(e) A licensee has, with knowledge, permitted prostitution on the premises;

(f) A licensee has, with knowledge, operated the sexually oriented business during a period of time when the licensee's license was suspended;

(g) A licensee has, with knowledge, permitted any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises;

(h) A licensee is delinquent in payment to the city or state for any taxes or fees;

(i) A licensee has, with knowledge, permitted a person under eighteen (18) years of age to enter the establishment; or

(j) A licensee has attempted to sell his business license, or has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee of the establishment;

(k) A licensee has, with knowledge, permitted a person or persons to engage in specified sexual activities on the premises of the sexually oriented business.

(3) When the director revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation became effective. (Ord. #12-2002, Dec. 2012)

9-311. Judicial review. After denial of an initial or renewal application by the director and board, or suspension or revocation of a license by the director, the applicant or licensee may seek prompt judicial review of such administration action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court. (Ord. #12-2002, Dec. 2012)

9-312. No transfer of license. A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. It shall be unlawful for any other person to operate said establishment. (Ord. #12-2002, Dec. 2012)

9-313. Location restrictions. Sexually oriented businesses shall be permitted in any commercial district provided that:

- (1) The sexually oriented business may not be operated within:
- (a) Two thousand feet (2,000') of a church, synagogue or regular place of religious worship;
 - (b) Two thousand feet (2,000') of a public or private elementary or secondary school;
 - (c) Two thousand feet (2,000') of a boundary of any residential district;
 - (d) Two thousand feet (2,000') of a public park;
 - (e) Two thousand feet (2,000') of a licensed day-care center;
 - (f) Two thousand feet (2,000') of an entertainment business that is oriented primarily towards children or family entertainment; or
 - (g) One thousand feet (1,000') of another sexually oriented business.

(2) A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business that is classified in accordance with § 9-303.

(3) For the purpose of this chapter, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of a affected public park, residential district, or residential lot, or licensed day care center, or child or family entertainment business.

(4) For purposes of subsection (3) of this section, the distance between any two (2) sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located. (Ord. #12-2002, Dec. 2012)

9-314. Non-conforming uses; amortization. (1) Any business lawfully operating on the effective date of this chapter that is in violation of the locational or structural configuration requirements of this chapter shall be deemed a nonconforming use. The non-conforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within one thousand feet (1,000') of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operated at a particular location is the conforming use and the later-established business(es) is non-conforming.

(2) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, synagogue, or

regular place of religious worship, public or private elementary or secondary school, licensed day-care center, public park, residential district, or child or family entertainment business within one thousand five hundred feet (1,500') of the sexually oriented business. This provision applies only to the renewal of a valid business license, and does not apply when an application for a business license is submitted after a business license has expired or has been revoked. (Ord. #12-2002, Dec. 2012)

9-315. Additional regulations for adult motels. (1) Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this chapter.

(2) It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

(3) For purposes of subsection (2) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(4) Violation of subsection (2) of this section shall constitute a misdemeanor. (Ord. #12-2002, Dec. 2012)

9-316. Additional regulations for escort agencies. (1) An escort agency shall not employ any person under the age of eighteen (18) years.

(2) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

(3) Violation of this section shall constitute a misdemeanor. (Ord. #12-2002, Dec. 2012)

9-317. Additional regulations for nude model studios. (1) A nude model studio shall not employ any person under the age of eighteen (18) years.

(2) A person under the age of eighteen (18) years commits a misdemeanor if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to the public view or visible by any other person.

(3) A person commits a misdemeanor if the person appears in a state of nudity, or with knowledge, allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(4) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a

reception room which is fully and continuously open to the public. (Ord. #12-2002, Dec. 2012)

9-318. Additional regulations concerning public nudity. (1) It shall be a misdemeanor for a person who, with knowledge and intent, appears in person in a state of nudity in a sexually oriented business, or depicts specified sexual activities in a sexually oriented business.

(2) It shall be a misdemeanor for a person who, with knowledge and intent, appears in person in a semi-nude condition on the sexually oriented business premises, unless the person is an employee who, while semi-nude, is at least ten feet (10') from any patron or customer and on a stage at least two feet (2') from the floor.

(3) It shall be a misdemeanor for an employee, while semi-nude on the sexually oriented business premises, to solicit any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude.

(4) It shall be a misdemeanor for an employee, while semi-nude, to touch a patron or the clothing of a patron, or for a patron to touch a semi-nude employee or the clothing of a semi-nude employee, while said employees is on the premises of the sexually oriented business. (Ord. #12-2002, Dec. 2012)

9-319. Regulations pertaining to exhibition of sexually explicit films and videos. (1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction, that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the business 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 designated 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 inches (6"). The director 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 said diagram was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the director or his designee.

(d) It is the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire 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 has 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 the entire area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection (5) of this section remains unobstructed at all times. No doors, walls, partitions, curtains, merchandise, display racks, or other object(s) shall obstruct from view of the manager's station any portion of the premises to which patrons have access. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted, as designated in the application filed pursuant to subsection (1) of this section.

(g) 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 five (5) foot-candle as measured at the floor level.

(h) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(i) No viewing room or booth may be occupied by more than one (1) person at any time.

(j) No opening of any kind shall exist between viewing rooms or booths.

(k) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no more than one (1) person at a time occupies a viewing booths or rooms, and to ensure that no person attempts to make an opening of any kind between the viewing booths or rooms.

(l) The operator of the sexually oriented business shall, each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

(m) The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(n) The operator of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight inches (48") of the floor.

(2) A person having a duty under subsection (a) through (n) of this section commits a misdemeanor if he/she, with knowledge, fails to fulfill that duty. (Ord. #12-2002, Dec. 2012)

9-320. Exterior portions of sexually oriented businesses. (1) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

(2) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.

(3) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

(a) The establishment is a part of a commercial multi-unit center; and

(b) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(4) Nothing in this chapter shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

(5) A violation of any provision of this section shall constitute a misdemeanor. (Ord. #12-2002, Dec. 2012)

9-321. Signage. (1) Notwithstanding any other city ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

(2) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

- (a) Not contain any flashing lights;
- (b) Be a flat plane, rectangular in shape;
- (c) Not exceed seventy-five (75) square feet in area; and
- (d) Not exceed ten feet (10') in height or ten feet (10') in length.

(3) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

(4) Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(5) Secondary signs shall have only one (1) display surface. Such display surface shall:

- (a) Be a flat plane, rectangular in shape;
- (b) Not exceed twenty (20) square feet in area;
- (c) Not exceed five feet (5') in height and four feet (4') in width;

and

- (d) Be affixed or attached to any wall or door of the enterprise.

(6) The provisions of item (a) of subsection (b) and subsection (3) and (4) shall also apply to secondary signs.

(7) Violation of any provision of this section shall constitute a misdemeanor. (Ord. #12-2002, Dec. 2012)

9-322. Sale, use, or consumption of alcoholic beverages prohibited. (1) The sale, use, or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited.

(2) Any violation of this section shall constitute a misdemeanor. (Ord. #12-2002, Dec. 2012)

9-323. Persons younger than eighteen (18) prohibited from entry; attendant required. (1) It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open for business.

(2) It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

(a) A valid operator's, commercial operator's, or chauffeur's driver's license; or

(b) A valid personal identification certificate issued by the State of Tennessee reflecting that such person is eighteen (18) years of age or older.

(3) Violation of this section shall constitute a misdemeanor. (Ord. #12-2002, Dec. 2012)

9-324. Massages or baths administered by person of opposite sex.

It shall be unlawful for any sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex. Violation of this section shall constitute a misdemeanor. (Ord. #12-2002, Dec. 2012)

9-325. Hours of operation.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 A.M. and 8:00 A.M. on weekdays and Saturdays, and between the hours 1:00 A.M. and 12:00 P.M. on Sundays. (Ord. #12-2002, Dec. 2012, modified)

9-326. Exemptions.

It is a defense to prosecution under this chapter that a person appearing in a state of nudity did so in a modeling class operated:

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

(2) By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation. (Ord. #12-2002, Dec. 2012)

9-327. Notices.

(1) Any notice required or permitted to be given by the director or any other city office, division, department or other agency under this chapter to any applicant, operator or owner of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or any notice of address change that has been received by the director. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given

by mail is returned by the postal service, the director or his designee shall cause it to be posted at the principal entrance to the establishment.

(2) Any notice required or permitted to be given to the director by any person under this chapter shall not be deemed given until and unless it is received in the office of the director.

(3) It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the director in writing of any change of residence or mailing address. (Ord. #12-2002, Dec. 2012)

9-328. Injunction. A person who, operates or causes to be operated a sexually oriented business without a valid business license, or in violation of § 9-313 of this chapter, is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually oriented business so operates is a separate offense or violation. (Ord. #12-2002, Dec. 2012)

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

1. DEFINITIONS.
2. ANIMAL SHELTER.
3. ANIMALS IN GENERAL.

CHAPTER 1**DEFINITIONS****SECTION**

10-101. Definitions.

10-101. Definitions. As used in this title, the words, terms and phrases set forth in this chapter shall have the meanings therein ascribed unless the context in which they are used shall clearly require a different meaning.

(1) "Animal." Any living creature, domestic or wild, to include without limitation, all non-human mammal species and all species of birds, fishes and reptilians.

(2) "Animal at-large or at-large animal." Any animal off the premises of its owner and not under the immediate restraint or control of a person capable of restraining or controlling its actions or movements.

(3) "Animal shelter." Any facility operated by the government of Campbell County, Tennessee for the purpose of impounding animals under authority of and in accordance with the Campbell County "Animal Control and Protection Resolution and Ordinance."

(4) "Cat." Any domestic feline four (4) months of age or older.

(5) "Citation." A document approved as to form by the board of mayor and aldermen issued by an animal control officer and by which an obligation is imposed upon a person to appear before the city court on a date certain to answer a charge of having violated any provision of this title.

(6) "Commercial animal establishment." Any place of business, other than a veterinary hospital or clinic, which is operated for profit or which charges a fee for the shelter, boarding, grooming or care of animals, or which is engaged in the business of selling or breeding animals.

(7) "County animal control officer." Any person employed and designated as such by Campbell County, Tennessee.

(8) "Dog." Any domestic canine four (4) months of age or older.

(9) "Domestic animal." Any animal whose physiology has been determined or manipulated through selective breeding such as does not occur naturally in the wild.

(10) "Livestock." All equine as well as animals which are being raised primarily as work or utility animals or for utilization as food or fiber for human consumption including but not limited to cattle, sheep, swine, goats and poultry.

(11) "Municipal animal control officer." Any person employed and designated as such by the board of mayor and aldermen.

(12) "Non-livestock animal." A pet or companion animal normally maintained in or near the household of its owner including, but not limited to, a pet chick, a pet duck, a pet rabbit, a pet pot bellied pig, previously captured wildlife, an exotic animal, or any other pet or companion animal not classified as livestock under subsection (10) above.

(13) "Nuisance animal." Any animal which, by reason of noise, odor, disease conduct, or the condition of its habitation subjects any person, other than its owner, to any form of unreasonable annoyance or discomfort; causes damage to the property of any person or persons other than its owner; disturbs the public peace; or, which endangers the life, health, safety or well being of other animals or of any person or persons other than the owner. The term "nuisance animal" includes but is not limited to any animal which:

- (a) Is repeatedly found to be at large; or
- (b) Causes damage to the property of anyone other than its owner; or
- (c) Upsets, overturns, opens, or rummages through garbage containers; or
- (d) Chases vehicles; or
- (e) Molests, intimidates, challenges, charges toward, chases after, attacks, bites, snaps at, or jumps towards or upon pedestrians or passers by; or
- (f) Attacks or engages itself in fights with other domestic animals; or
- (g) Has attacked or bitten any person other than its owner; or
- (h) By reason of foul odor emanating from its place of confinement or enclosure causes unreasonable annoyance or discomfort to neighbors or to other persons in close proximity to the premises at which it is kept; or
- (i) By reason of repeated or excessive barking, howling, whining or other noise created thereby causes unreasonable annoyance or discomfort to neighbors or to other persons in close proximity to the premises at which it is kept; or
- (j) Being infected with a contagious disease is kept or harbored in a manner such that other domestic animals and humans susceptible to contracting the disease are exposed thereto; or
- (k) Has for any reason been found and declared to be a nuisance animal or a menace to the public health, welfare or safety by any competent public authority.

(14) "Owner." Any person keeping or harboring one (1) or more animals within the municipal boundaries of the City of Jellico. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days.

(15) "Person." Any individual, partnership, association, corporation, company, firm, business or other legally recognized entity.

(16) "Quarantine." The humane confinement of an animal in a secure enclosure which prevents the animal from coming into unplanned contact with any other animal or with any human being.

(17) "Restraint." Any leash, lead, chain or other device or implement by which the movement of an animal is immediately secured to and controlled by a capable human being. Any fence, cage, enclosure, or other device which secures and confines the movement of an animal to a space within the property limits of its owner. Any voice command to which an animal is absolutely obedient and by which the animal's movement is immediately secured and controlled by a capable human being.

(18) "Vaccination." The injection of an animal with an approved rabies vaccine administered by a veterinarian or other qualified person in accordance with state board of health regulations.

(19) "Veterinarian." A duly licensed practitioner of veterinary medicine.

(20) "Veterinary hospital or clinic." Any facility maintained and operated by a licensed veterinarian or veterinarians, in present person, for the purpose of practicing veterinary medicine and surgery and/or the boarding and care of quarantine of animals.

(21) "Vicious animal." Any animal which, without adequate provocation, has attacked, bitten or injured a human being or another domestic animal, or which, because of its temperament, conditioning or training, has a known propensity to attack, bite or injure human beings or other domestic animals. (Ord. #24-2005, Dec. 2005)

CHAPTER 2

ANIMAL SHELTER

SECTION

10-201. Intergovernmental cooperation.

10-202. Animal control advisory committee.

10-203. Impound facility and acceptance for impound.

10-204. Responsibility for impounded and quarantined animals.

10-201. Intergovernmental cooperation. Animal control and protection within the municipal boundaries of the City of Jellico is undertaken in conjunction and cooperation with the operations of the county-wide animal control and protection program and animal shelter as established by and pursuant to the Campbell County "Animal Control and Protection Resolution and Ordinance."¹ (Ord. #24-2005, Dec. 2005)

10-202. Animal control advisory committee. In accordance with section 1 of said "Animal Control and Protection Resolution and Ordinance" of Campbell County, Tennessee, the mayor shall appoint one (1) member to the Campbell County Animal Control Advisory committee who shall serve a term of four (4) years. The mayor in making such appointment may chose to appoint himself; any alderman, or any adult resident property owner of the city. (Ord. #24-2005, Dec. 2005)

10-203. Impound facility and acceptance for impound. In accordance with the Campbell County "Animal Control and Protection Resolution and Ordinance" and regulates promulgated thereunder, the Campbell County Animal Shelter shall serve as the animal impound and quarantine facility for the City of Jellico and the Campbell County Animal Shelter shall accept for impoundment or quarantine any animal delivered into its possession for impound or quarantine by a municipal animal control officer. (Ord. #24-2005, Dec. 2005)

10-204. Responsibility for impounded and quarantined animals. Once an animal has been delivered into the possession of the Campbell County Animal Shelter for impoundment or for quarantine by a municipal animal

¹A copy of the Campbell County, Tennessee "Animal Control and Protection Resolution and Ordinance," as adopted by the Campbell County Commission, together with any future amendments thereto, shall be kept on file in the office of the city recorder and shall be available for public inspection during normal business hours.

control officer, the municipality shall thereupon relinquish and be fully absolved from further responsibility for the animal and the shelter shall thereafter fully assume and be responsible for the impounded animal's continuing care, possession, control, confinement, and treatment and each such animal shall be dealt with and disposed of by the shelter in accordance with the procedures and policies set forth and contained in the Campbell County "Animal Control and Protection Resolution and Ordinance," which procedures and policies to be assumed and followed by the shelter shall, include, without limitation, owner notification of the impoundment or quarantine as and when such notification is therein required. Delivery of an animal into the possession of a county animal control officer for impound or quarantine shall constitute delivery into the possession of the Campbell County Animal Shelter. (Ord. #24-2005, Dec. 2005)

CHAPTER 3

ANIMALS IN GENERAL

SECTION

- 10-301. Restraint.
- 10-302. Animals at-large.
- 10-303. Restraint required for vicious animals.
- 10-304. Keeping of nuisance animals prohibited.
- 10-305. Keeping of livestock.
- 10-306. Operation of commercial animal establishment.
- 10-307. Issuance of and proceedings upon citations.
- 10-308. Authority of county animal control officers within city.

10-301. Restraint. All animals within the boundaries of the city must be under restraint at all times. (Ord. #24-2005, Dec. 2005)

10-302. Animals at-large. (1) It shall be the duty of the municipal animal control officer to apprehend, capture or seize and deliver to the animal shelter for impoundment, any animal at large within the municipal boundaries of the city; provided, however, that if, an emergency situation exists which requires the immediate euthanasia of an injured, vicious, dangerous or severely diseased non-livestock animal, and the apprehension or capture of the animal cannot be reasonably secured, the animal control officer or any police officer of the municipality may slay the animal by the most reasonable and humane means available.

(2) The owner of an animal who permits or allows the same to be at large within the boundaries of the municipality shall be guilty of a municipal offense punishable, upon conviction, by a civil penalty not less than ten dollars (\$10.00) nor more fifty dollars (\$50.00). A second or subsequent violation of this subsection shall be punishable by a civil penalty of not more nor less than fifty dollars (\$50.00).

(3) The owner of a vicious animal who permits or allows the same to be at large within the municipal boundaries shall be guilty of a municipal offense punishable, upon conviction, by a civil penalty of not more or less than fifty dollars (\$50.00).

(4) The owner of a nuisance animal who permits or allows the same to be at large within the municipal boundaries shall be guilty of a municipal offense punishable, upon conviction, by a penalty of not more nor less than fifty dollars (\$50.00). (Ord. #24-2005, Dec. 2005, modified)

10-303. Restraint required for vicious animals. (1) No vicious animal shall be kept or harbored within the municipal boundaries of the city except under such restraint, whether on- of off-premises of the owner, as will

continuously and effectively prevent such animal from biting, attacking, or coming into direct contact with any person, other than the owner thereof, or from biting, attacking or coming into contact with any other domestic animal.

(2) It shall be the duty of the municipal animal control officer to capture or seize and deliver to the animal shelter for impoundment any vicious animal kept or harbored in violation of this section; provided, however, that if, after reasonable effort is made, capture or seizure of the animal cannot be secured, the animal control officer or any police officer of the municipality may slay the animal by the most reasonable and humane means available.

(3) Any person who shall keep or harbor a vicious animal in violation of this section shall be guilty of a municipal offense punishable by a civil penalty of not more or less than fifty dollars (\$50.00). Each day that a violation of this section continues shall constitute a separate offense. (Ord. #24-2005, Dec. 2005)

10-304. Keeping of nuisance animals prohibited. (1) No nuisance animal or animals shall be kept or harbored within the municipal boundaries of the city.

(2) It shall be the duty of the municipal animal control officer to apprehend, capture or seize and deliver to the animal shelter for impoundment any nuisance animal or animals kept, harbored or found within the municipal boundaries of the city after reasonable notice and warning is made and given to the owner thereof, if known, requiring the owner to abate and effect a cessation of the nuisance; provided, however, that no prior notice or warning of seizure and impoundment shall be required if the animal is at large or has bitten or otherwise physically injured a human being or has bitten or physically injured another domestic animal; provided further, that if, an emergency situation exists which requires the immediate euthanasia of an injured, vicious, dangerous or severely diseased non-livestock nuisance animal, and the apprehension or capture of the animal cannot be reasonably secured, the animal control officer or any police officer of the municipality may slay the animal by the most reasonable and humane means available.

(3) Any person who shall keep or harbor nuisance animal or animals in violation of this section shall be guilty of a municipal offense punishable by civil penalty of not more or less than fifty dollars (\$50.00) for each such animal kept or harbored. Each day that a violation of this section continues unabated after notice and warning shall constitute a separate offense.

(4) For purposes of this section twenty-four (24) hours shall constitute reasonable prior warning and notice. (Ord. #24-2005, Dec. 2005)

10-305. Keeping of livestock. No livestock as defined by § 10-101(10) of this title shall be kept within one thousand feet (1,000') of any residence or place of business other than that of the owner of such livestock unless the issuance of a permit therefor is affirmatively authorized by the board of mayor and aldermen after public notice and hearing.

(2) Any person desiring to keep livestock within the municipal boundaries of the city at a place located within one thousand feet (1,000') of any residence or place of business other than that of the owner of such livestock, shall file a written application therefor with the city recorder and shall personally appear and present same to the board of mayor and aldermen for review and discussion at the next regular meeting of the board occurring more than one (1) week after the date of filing. The application as filed and presented to the board must be dated and signed by the applicant under oath; must identify the type, kind and number of each kind of livestock to be kept; and, must describe in detail the place, area, lot, yard, pen, housing, shelter, enclosure, facilities, supervision, control, restraint, manner, circumstances and purposes in, under, pursuant to, and for which the livestock is to be kept and maintained by the applicant at that location. If after this initial presentation of the application the board of mayor and aldermen is satisfied that the application fully meets the requirements of this subsection, the application shall be scheduled for public hearing and notice of such public hearing shall be published in a newspaper of general circulation within the municipality for not less than one (1) time in two (2) consecutive weeks the last of which shall appear not more than ten (10) days or less than three (3) days prior to the date and time scheduled for such hearing. The cost of publishing this notice shall be borne by the applicant.

(3) No permit to keep livestock will be authorized by the board of mayor and aldermen, if in the judgment of the board the keeping of such livestock, as requested in the application, would constitute a nuisance or would injuriously affect the public peace, health, welfare or safety.

(4) Any livestock kept within the municipal boundaries of the city in violation of this section is hereby declared to be a nuisance animal.

(5) This section shall not apply to any place, area, lot, yard, pen, housing, shelter, enclosure, or facility located outside the municipal boundaries of the city at which livestock is being kept at the time any such place, area, lot, pen, housing, shelter, enclosure or facility is annexed into the city and at which livestock is thereafter continuously kept and maintained; provided, that in the event any such place, area, lot, yard, pen, housing, shelter, enclosure, or facility, after its annexation into the city, should cease, for any period of time, to be utilized as a place for the keeping of livestock, no matter how short the period of such cessation, this section shall thereupon immediately be and become applicable thereto. (Ord. #24-2005, Dec. 2005)

10-306. Operation of commercial animal establishment. (1) No person shall operate a commercial animal establishment within the corporate boundaries of the municipality without a license therefor issued by the Campbell County Animal Shelter in accordance with section XX of the Campbell County "Animal Control and Protection Resolution and Ordinance" and a business license issued by the municipality. No municipal business license will be issued

for such purpose to any person who has not first obtained the issuance of a license from the Campbell County Animal Shelter.

(2) Any person who operates a commercial animal establishment within the corporate boundaries of the city without a validly issued and currently effective municipal business license as required by this section shall be guilty of a municipal offense punishable by a civil penalty of not less nor more than fifty dollars (\$50.00). Each day of any such operation in violation of this section shall constitute a separate offense. (Ord. #24-2005, Dec. 2005)

10-307. Issuance of and proceedings upon citations. (1) A municipal animal control officer, as such, shall have no powers of arrest but is authorized to issue a citation to any person who, in the officer's judgment, based upon reasonable and probable grounds, is violating or has violated any provision of this title for which a civil penalty is prescribed.

(2) The citation shall demand the person cited to appear in the city court on a stated date and at a stated time, it shall state the name and address of the person cited, the name of the issuing officer, and the particular violation or violations charged. The date and time specified on the citation to appear shall be as fixed by the officer.

(3) The citation shall give notice to the person cited that failure to appear as therein directed is punishable as contempt of court.

(4) The citation shall be executed in triplicate, the original to be delivered to the city court, one (1) copy to be given to the person cited, and one (1) copy to be retained by the officer issuing the citation.

(5) The person cited shall signify acceptance of the citation and his or her agreement to appear in court as directed by signing the citation. If the person cited refuses to accept and sign the citation, it shall thereupon become the duty of the animal control officer to present an affidavit of complaint to the city court and request the court to issue, for service or execution by a municipal police officer, a summons or a warrant for the arrest of such person.

(6) The original citation delivered to the court shall be sworn to by the issuing officer before the city judge or other official lawfully assigned such duty.

(7) Whenever a citation has been prepared and accepted, and the original thereof delivered to the court as provided herein, the original citation delivered to the court shall constitute a complaint to which the person cited must answer and the officer issuing the citation shall not be required to file any other affidavit of complaint with the court.

(8) Prior to the time set for the person to appear in court to answer the violation or violations charged in the citation, the person cited may elect not to contest the charge or charges and may, in lieu of appearance in court, submit the minimum fine prescribed for each such violation not contested together with

required state and municipal litigation taxes,¹ the clerk's fee² and the data entry fee to the city court clerk. In such case, the municipal court costs³ which would otherwise be required, will not be taxed or charged to the person cited. The submission to fine must be with the approval of the city court.

(9) If the person cited has not paid the citation upon submission to fine as provided in this section and shall fail to appear in court at the time specified in the citation, or such later date as may be fixed by the court, such person shall be guilty of a separate offense for such failure to appear which shall be punishable as a contempt of court, and the court may issue a warrant for such person's arrest.

(10) The citation form, if so marked, may be used by the animal control officer as documentation and evidence of any notice and warning given to the owner of a nuisance animal required by § 10-304 of this chapter; provided, that the original thereof, signed and sworn to by the officer, shall be promptly delivered to and filed with the city court. In such case, one (1) copy of the warning citation shall be retained by the officer and one (1) copy shall be given to the person so warned. It shall not be required that the warning citation be signed by the person to whom the notice and warning is given. (Ord. #24-2005, Dec. 2005)

10-308. Authority of county animal control officers within city.

No provision of this title shall be interpreted or construed so as to prevent, preclude, limit or restrict a county animal control officer from the performance of any duty, investigation, inspection, impoundment or enforcement action provided for or required of county animal control officers by, under or pursuant to the Campbell County "Animal Control and Protection Resolution and Ordinance," in relation to any animal, premises, business or person which may be found or located within the municipal boundaries of the city; provided that there shall be no separate prosecutions by county and municipal officers against the same person for the same violation or offense under or pursuant to said county ordinance and under or pursuant to this title. (Ord. #24-2005, Dec. 2005)

¹Municipal code reference
Litigation tax: §3-208(1)

²Municipal code reference
Clerk's fee: § 3-306(2)

³Municipal code reference
Collection of court costs: §3-306(2)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

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

CHAPTER 1

**OFFENSES AGAINST THE PEACE AND QUIET
AND OTHER NUISANCES**

SECTION

- 11-101. Definitions.
- 11-102. Restrictions.
- 11-103. Declared unnecessary noises enumerated.
- 11-104. Non-vehicular noises restricted.
- 11-105. Vehicular noise regulations.
- 11-106. Exemptions.
- 11-107. Sound measurements.
- 11-108. Nuisance caused by dust, odors and airborne pollutants.
- 11-109. Prevailing standards.
- 11-110. Severability.
- 11-111. Nuisance injunction.
- 11-112. Violations and penalty.

11-101. Definitions. As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) "City." The City of Jellico, Tennessee.
- (2) "dbAs." Decibels shown in a reading on the dbA scale.

¹Municipal code references

Animals and fowls: title 10.

Fireworks and explosives: title 7.

Residential and utilities: title 12.

Traffic offenses: title 15.

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

(3) "Decibel." A unit for measuring the volume of a sound equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals per square meter.

(4) "Sound level meter." An instrument used for measurement of the intensity of sound and accurately calibrated in decibels. Readings shall be made on a dbA scale.

(5) "Sound pressure." The average rate at which sound energy is transmitted through a unit area in a specified direction.

(6) "Vehicular." Pertaining to motor vehicles required to be registered by the Division of Motor Vehicles for the State of Tennessee. (Ord. #2019-06, June 2019)

11-102. Restrictions. (1) The making, creation or permitting of any unreasonably loud, disturbing or unnecessary noise in the city is prohibited.

(2) The making, creating or pennitting of any noise of such character, intensity or duration as to be detrimental to the life, health or welfare of any individual or which either steadily or intermittently annoys, disturbs, injures or endangers the comfort, repose, peace or safety of any individual is prohibited.

(3) The following standards shall apply:

(a) Residential zones. No person shall cause, suffer, allow or pemlit sound from any source which when measured at the point of annoyance, is in excess of:

(i) 7:00 A.M. to 10:00 P.M.:

(A) Continuous airborne sound which has a sound level of fifty-five (55) dbAs.

(B) Impulsive sound in air with an impulsive sound level of eighty (80) dbAs.

(ii) 10:00 P.M. to 7:00 A.M.:

(A) Continuous airborne sound which has a sound level of fifty (50) dbAs.

(B) Impulsive sound in air with an impulsive sound level of eighty (80) dbAs.

(b) Industrial and commercial zones. No person shall cause,suffer, allow or permit sound from any source which when measured at the point of annoyance, is in excess of:

(i) 7:00 A.M. to 10:00 P.M.:

(A) Continuous airborne sound which has a sound level of sixty-five (65) dbAs.

(B) Impulsive sound in air with an impulsive sound level of eighty (80) dbAs.

(ii) 10:00 P.M. to 7:00 A.M.:

(A) Continuous airborne sound which has a sound level of fifty-five (55) dbAs.

(B) Impulsive sound in air with an impulsive sound level of eighty (80) dbAs. (Ord. #2019-06, June 2019)

11-103. Declared unnecessary noises enumerated. The following acts, among others, are declared to be loud or disturbing or unnecessary noises in violation of this chapter even if the noises referred to do not violate the standard noise level for the city.

(1) Horns, signal devices and the like. (a) The sounding of any horn or signal device of any automobile, motorcycle, bus or other vehicle:

(i) While not in motion, except as a danger signal that another vehicle is approaching apparently dangerously; or

(ii) If in motion:

(A) After or as brakes are being applied and deceleration of the vehicle is intended;

(B) Before passing another vehicle as a signal of intent to so pass;

(C) Where state motor vehicle statutes require the sounding of such a horn or signaling device; or

(D) When otherwise necessary as a danger signal.

(b) Wherever the sounding of any horn or signal device is permitted or required such sound shall not be unreasonably loud or harsh and shall not be for an unreasonable duration of time.

(2) Animals and birds. The keeping of any animal or bird which, by causing frequent or long-continued noise, disturbs the comfort and repose of any person in their vicinity.

(3) Defect in vehicle or noisy load. The use of any automobile, motorcycle or other vehicle so out of repair or loaded in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise.

(4) Steam whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.

(5) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorcycle engine except through a muffler or other device which meets the standards established for such devices by applicable state laws and regulations.

(6) Mechanical devices. The use of mechanical devices operated by compressed air unless the noise created thereby is effectively muffled and reduced.

(7) Schools, courts, churches, and hospitals. The creation of any loud or excessive noise on any street adjacent to any school or institution of learning or judicial court while the same are in session or on any street adjacent to any hospital, which noise unreasonably interferes with the workings of such institutions; this restriction shall be in force only if signs are displayed in such streets indicating the same is a school, hospital, or court street or quiet zone.

(8) Loading or unloading of vehicles; opening or destruction of boxes. The creation of a loud or excessive noise in connection with loading or unloading any vehicle or the opening or destruction of bales, boxes, crates, and containers.

(9) Devices attached to buildings. The sounding of any bell, gong or device attached to any building or premises, particularly during the hours between 11:00 P.M. and 7:00 A.M., which disturbs the quiet or repose of any persons in the vicinity of the devices. This rule shall not apply if the bell, gong or device is sounded as a warning of danger.

(10) Trains, vehicles and buses. The unnecessary or prolonged blowing or sounding of any horn, whistle, bell or other device attached to any train, locomotive, motor vehicle, bus or truck while passing through the city or while loading passengers or freight within the city.

(11) Loudspeakers and amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other vehicles for advertising or other commercial purposes, except where a specific license or permit is received from the police department.

(12) Construction or repair of buildings. Construction, demolition, repair, paving or alteration of buildings or streets or excavation when conducted between the hours of 7:00 P.M. and 7:00 A.M. (9:00 A.M. And 7:00 P.M. on Sundays), except in emergencies. (Ord. #2019-06, June 2019)

11-104. Non-vehicular noises restricted. No person shall use or operate any facility, machine or instrument or produce or cause to be produced any sound in the city, when the same shall produce noise, the sound-pressure level of which measured at the point of annoyance complained of shall exceed the standard noise level of the city established for that location and time of day. In measuring noises to determine if the standard noise level of the city has been exceeded, the measurement shall be measured on the A-weighting of an accurate sound-level meter. The background sound level is defined as the sound present when the offending noise source is silenced. (Ord. #2019-06, June 2019)

11-105. Vehicular noise regulations. (1) No person shall operate, within the limits of the city, any vehicle which will emit noise which will exceed the standard noise level of the city established for the size vehicle when used under ordinary circumstances. For noncommercial vehicles, the standard noise level of the city is hereby established as follows:

| <u>Type of vehicle</u> | <u>Maximum noise level (dbAs)</u> |
|--------------------------------|-----------------------------------|
| Vehicle other than motorcycles | 76 |
| Motorcycles | 82 |

(2) Measurements shall be taken fifty feet (50') from the source. (Ord. #2019-06, June 2019)

11-106. Exemptions. Exemptions from noise level limits shall be as follows:

(1) Emergency construction, repair, pavings demolition, or alteration of a street or building. Permission of the city mayor shall be proof that such emergency exists.

(2) Emergency activities of municipal, county, state, or federal government agencies and emergency activities of public utilities when they are seeking to provide electricity, water or other public utility services and the public health, safety or welfare are involved.

(3) Warning devices on authorized emergency vehicles and on vehicles used for traffic safety purposes.

(4) Attendant on-site noise connected with the actual performance of sporting events, parades, auctions, fairs and festivals.

(5) Power lawn mowers, when operated between the hours of 8:00 A.M. (9:00 A.M. on Sundays) and 10:00 P.M.

(6) Air conditioners that increase the background or ambient noise level no more than five (5) dbAs. (Ord. #2019-06, June 2019)

11-107. Sound measurements. Sound measurements shall be made with a sound-level meter. (Ord. #2019-06, June 2019)

11-108. Nuisance caused by dust, odors and airborne pollutants. Within the City of Jellico, the following is hereby declared to be a nuisance:

The creation of dust, fumes, airborne pollutants, or odors by the operation of motor vehicles, racing cars, amusement rides, rides or other motor driven contrivances, where the dust, fumes, airborne pollutants, or odors are carried beyond the boundaries or property line of the property whereon the above enumerated vehicles and/or motor driven contrivances may be operated in such quantities as to do any of the following:

(1) Interferes with the reasonable enjoyment of any property; or

(2) Affects a person's health or ability to breathe by reason of air that contains dust, fumes, airborne pollutants or odors; or

(3) Leaves any visible or detectable dust, residue, or the residue of dust, and/or airborne pollutants on or over any property in the city; or

(4) Limits or restricts visibility upon public roadways within the city. No person, firm or proper corporation shall cause any such nuisance, as afore described, anywhere in the City of Jellico. (Ord. #2019-06, June 2019)

11-109. Prevailing standards. Whenever any provision of this chapter conflicts with any other applicable municipal, state or federal ordinance or statute, the higher standard shall prevail. (Ord. #2019-06, June 2019)

11-110. Severability. The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications

of this chapter which can be given effect without the invalid provisions or applications. (Ord. #2019-06, June 2019)

11-111. Nuisance injunction. Any violation of this chapter is declared to be a nuisance. In addition to any other relief provided in 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. (Ord. #2019-06, June 2019)

11-112. Violations and penalty. Any person, firm or corporation violating any provision of this chapter shall be fined no less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) for each offense, and a separate offense shall be deemed committed on each day or during or on which a violation occurs or continues. (Ord. #2019-06, June 2019)

CHAPTER 2**FIREARMS, WEAPONS AND MISSILES****SECTION**

11-201. Air rifles, etc.

11-202. Throwing missiles.

11-203. Discharge of firearms.

11-201. Air rifles, etc. It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1968 Code, § 10-213)

11-202. Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1968 Code, § 10-214)

11-203. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1968 Code, § 10-212, modified)

CHAPTER 3

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

11-301. Trespassing.

11-302. Trespassing on trains.

11-303. Interference with traffic.

11-301. 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 leave promptly leave the private premises of any person who requests or directs him to leave. (1968 Code, § 10-226)

11-302. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1968 Code, § 10-221)

11-303. 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 with the free passage of pedestrian or vehicular traffic thereon. (1968 Code, § 10-233)

CHAPTER 4**MISCELLANEOUS****SECTION**

11-401. Caves, wells, cisterns, etc.

11-402. Posting notices, etc.

11-401. 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. (1968 Code, § 10-232)

11-402. 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. (1968 Code, § 10-227)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. RESIDENTIAL CODE.
4. ENERGY CONSERVATION CODE.
5. PROPERTY MAINTENANCE CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

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

12-101. Building code adopted. That a certain document, being marked and designated as the International Building Code,² 2018 edition, including Appendix Chapters A-J as published by the International Code Council, be and is hereby adopted as the Building Code of the City of Jellico, in the State of Tennessee for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said building code on file in the office of the City of Jellico are hereby referred

¹Municipal 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.

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

to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in § 12-102 of this chapter. (Ord. #2-20-2020, May 2020)

12-102. Modifications. The following sections are hereby revised to read as follows:

Section P2904 Residential Fire Sprinkler System in new single family construction is hereby deleted. (Ord. #2-20-2020, May 2020, modified)

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

12-104. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

PLUMBING CODE¹

SECTION

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

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city/town, when such plumbing is or is to be connected with the city/town water or sewerage system, the International Plumbing Code,² 2018 edition, including Appendix Chapters A through E and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the plumbing code. (modified)

12-202. Modifications. The following sections are hereby revised to read as follows:

Definitions. Whenever the words "Building Official" are used in the plumbing code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the plumbing code.

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

¹Municipal code references

Cross-connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

RESIDENTIAL CODE

SECTION

- 12-301. Residential code adopted.
- 12-302. Modifications.
- 12-303. Available in recorder's office.
- 12-304. Violations and penalty.

12-301. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the International Residential Code,¹ 2021 edition, including Appendix Chapters AA through AW and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the residential code. (modified)

12-302. Modifications. The following sections are hereby revised to read as follows:

(1) Definitions. Whenever the words "Building Official" are used in the residential code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the residential code.

(2) Automatic sprinkler system standards. Section R 313 pertaining to automatic sprinkler systems for townhouses and residential dwellings for single family and double family dwellings is hereby deleted.

12-303. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-304. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code.. Each day a violation is allowed to continue shall constitute a separate offense.

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

CHAPTER 4

ENERGY CONSERVATION CODE¹

SECTION

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

12-401. Energy code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the International Energy Conservation Code,² 2021 edition, including Appendix Chapters RA through RC and all subsequent amendments or additions to said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the energy code. (modified)

12-402. Modifications. The following sections are hereby revised to read as follows:

(1) "Building Official." Whenever in the energy code these words are used, they shall refer to the person designated by the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

(2) "Chief Appointing Authority" shall mean the Mayor of the City of Jellico.

(3) In Appendix RA101.3 Insert "three (3) years. (modified)

12-403. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has

¹Municipal 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.

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

been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-404. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 5

PROPERTY MAINTENANCE CODE

SECTION

- 12-501. Property maintenance code adopted.
- 12-502. Modifications.
- 12-503. Available in recorder's office.
- 12-504. Violations and penalty.

15-801. Property maintenance code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said International Property Maintenance Code,¹ 2021 edition, including Appendix A and B and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the property maintenance code. (modified)

12-502. Modifications. The following sections are hereby revised to read as follows:

- (1) Definitions. Whenever the words "Building Official" are used in the property maintenance code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the property maintenance code.
- (2) "Chief Appointing Authority" shall be the Mayor of the City of Jellico.
- (3) Insert: In B101.3 insert four (4) year terms of board members. (modified)

12-503. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the property

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

maintenance code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-504. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. ABANDONED AND INOPERABLE VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Welfare and sanitation committee.
- 13-102. Health officer.
- 13-103. Smoke, soot, cinders, etc.
- 13-104. Stagnant water.
- 13-105. Weeds.
- 13-106. Overgrown and dirty lots.
- 13-107. Slum clearance.
- 13-108. Dead animals.
- 13-109. Health and sanitation nuisances.
- 13-110. House trailers.
- 13-111. Stripping, digging, or other removal of earth.
- 13-112. Render fire damaged property safe.
- 13-113. Violations and penalty.

13-101. Welfare and sanitation committee. The welfare and sanitation committee shall originate and/or review proposals, plans, or programs concerning matters of health, welfare, and sanitation, and shall make investigations and submit reports and/or recommendations to the governing body on such matters. (1968 Code, § 8-401)

13-102. 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. (1968 Code, § 8-402)

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

13-103. 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. (1968 Code, § 8-406)

13-104. 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. (1968 Code, § 8-407)

13-105. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police to cut such vegetation when it has reached a height of over one foot (1'). (1968 Code, § 8-408)

13-106. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

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

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

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

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

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

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

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in Campbell County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

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

for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

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

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

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

13-107. 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. (1968 Code, § 8-409)

13-108. 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. (1968 Code, § 8-410)

13-109. 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. (1968 Code, § 8-405)

13-110. Stripping, digging, or other removal of earth. To protect the public health and safety, to prevent the accumulation of water, pollution, or filth, it shall be the duty of any person, firm, or corporation engaging in strip mining or other operations within the corporate limits of Jellico in which the surface of the earth is deranged or mutilated to immediately following the progress of such work restore the surface of the earth to its original contour. Any strip mining or other operation conducted in violation of this section is declared to be a public nuisance and subject to abatement as such; further, each whole or part of a day's violation of this section shall be a separate misdemeanor. (1968 Code, § 8-413)

13-111. Render fire damaged property safe. Any property or structure located in whole or in part within the City of Jellico, whether residential, commercial, or of a mixed nature, which has been damaged in whole or in part by a fire shall be immediately rendered safe so as not to constitute or present an unreasonable threat of risk of harm to persons and/or property; rendering such fire-damaged property safe may include cordoning off the property and posting the property against trespass so as to prevent persons from entering upon the property until such time as the property can be repaired, razed, or replaced. The Building Inspector of the City of Jellico is empowered and authorized to make a determination as to whether or not such fire-damaged property is safe or not and what methods shall be utilized to render the property safe in conformity with this section and in conformity with the appropriate building and safety codes. The building inspector's determination may be appealed to the Board of Aldermen of the City of Jellico, Tennessee for a determination at a meeting called for that purpose. After the passage of forty-five (45) days from the date upon which the fire damage occurred, which forty-five (45) day period is deemed a reasonable time period for such inspections and evaluations to be performed as may be required by interested persons, the fire damaged property shall be forthwith cleaned up (which clean-up shall include the removal of fire debris) to the extent reasonably possible prior to the ultimate repair, demolition, or replacement of the damaged structure. If the owner or owners of the fire-damaged property fail to clean up the property as required hereby within sixty (60) days next following the end of the aforesaid forty-five (45) day period reserved for evaluation, the City of Jellico may enter upon the property and clean up the property and charge the owners for the costs of the clean up and place a lien upon the said property to the extent of such costs incurred. Nothing herein shall prevent the owner(s) of such fire-damaged property from rendering the property safe and from cleaning up the property as soon as they may choose so to do irrespective of the time periods allowed hereby. (Ord. #80-2010, Jan. 2010)

13-112. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

SLUM CLEARANCE¹

SECTION

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

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

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

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.

(3) "Municipality" shall mean the City of Jellico, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

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

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

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

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

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

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

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

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

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

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

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

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

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

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

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

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, 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 as set forth in Tennessee Code Annotated, § 67-5-2010 and § 67-5-2410. In addition, the municipality may collect the costs assessed against the owner

through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (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, the public officer 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 Campbell 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 City of Jellico to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

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

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. 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 Campbell County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final

disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

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

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

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

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

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

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

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

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

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

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

CHAPTER 3**JUNKYARDS****SECTION**

13-301. Junkyards.

13-301. Junkyards.¹ All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

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

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

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1968 Code, § 8-411)

¹State 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 4

ABANDONED AND INOPERABLE VEHICLES

SECTION

13-401. Definitions; declaration of nuisance; defenses.

13-402. Removal and disposition generally.

13-403. Vehicles on private property.

13-404. Liability for expenses when vehicle removed from private property.

13-405. Violations and penalty.

13-401. Definitions; declaration of nuisance; defenses.¹ (1) For purposes of this chapter, "abandoned motor vehicle" means:

(a) A motor vehicle that is left unattended on public property for more than thirty (30) days;

(b) Any motor vehicle that has remained illegally on public property for a period of more than forty-eight (48) hours; or

(c) A motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours.

(2) (a) For purposes of this chapter, "inoperable motor vehicle" means any motor vehicle which:

(i) Lacks major or essential mechanical or body parts;

(ii) Is junked or partially disassembled;

(iii) Has been burned or flooded throughout;

(iv) Cannot be driven legally upon the public streets and highways under the ordinances of the city or the laws of the state; or

(v) Is otherwise incapable of moving under its own power.

(b) For purposes of this chapter, "inoperable motor vehicle" further means any motor vehicle which meets two (2) or more of the following conditions:

(i) Does not comply with Tennessee Code Annotated, title 55, part 4 with respect to license and registration, as required by city code;

(ii) Has one (1) or more tires missing or not fully inflated;

(iii) Has more than one (1) broken window;

(iv) Is economically impracticable to restore to operating condition;

(v) Has any visibly rusted areas; or

¹State law reference

Similar provisions, Tennessee Code Annotated § 55-16-103(1).

(vi) Has not moved under its own power in sixty (60) days.

(3) For purposes of this chapter, "motor vehicle" means every vehicle which is self-propelled, excluding motorized bicycles and motorcycles and every vehicle which is not propelled by electric power obtained from overhead trolley wires.

(4) The presence of an abandoned, dismantled or inoperable motor vehicle on private or public property is hereby declared a nuisance, which may be abated in accordance with the provisions of this chapter.

(5) This section shall not apply:

(a) To any motor vehicle on private property which is not visible from the street or from other public or private property, if the motor vehicle is completely enclosed within a permanent or portable building consisting of four (4) walls and a roof and which is in compliance with all gas, plumbing, electrical, zoning and mechanical codes, and with the building code as adopted by the city; or

(b) To any motor vehicle held in connection with a business enterprise lawfully licensed by the city and properly operated in the appropriate zone pursuant to the zoning ordinance of the city, the storage or parking of such motor vehicle is necessary to the operation of such business enterprise.

(6) It shall be an affirmative defense to an action or violation of this section that the owner retains the inoperable motor vehicle for antique motor vehicle collection purposes. For purposes of this chapter, "antique motor vehicle" means any motor vehicle over twenty-five (25) years old which is owned solely as a collector's item and is used for participation in club activities, exhibits, tours, parades and similar uses, but in no event for general transportation, and which is registered as an antique vehicle under applicable title and registration laws. (Ord. #83-2011, March 2011)

13-402. Removal and disposition generally.¹ (1) Removal by city. The city, through the police department or other department as designated by the mayor, may take into custody any motor vehicle which is abandoned, wrecked, dismantled or inoperable upon public property, or upon private property with the consent of the owner. The department may employ its own personnel, equipment and facilities or hire persons, equipment and facilities for the purpose of removing, preserving and storing abandoned or inoperable vehicles.

(2) Notice to owner and lienholders. (a) Within fifteen (15) days of the removal of the abandoned or inoperable vehicle, the city shall notify by registered or certified mail, return receipt requested, the last known registered owner of the motor vehicle and all lienholders of record that

¹State law reference

Similar provisions, Tennessee Code Annotated § 55-16-105.

the vehicle has been taken into custody. The notice shall describe the year, make, model and serial number (if known) of the abandoned, wrecked, dismantled or inoperable motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any lienholder of their right to reclaim the motor vehicle within ten (10) days after the date of notice upon payment of all towing, preservation and storage charges resulting from placing the vehicle in custody, and state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all lienholders of all right, title and interest in the vehicle, and consent to the sale of the abandoned or inoperable motor vehicle at a public auction.

(b) If there is no response to the above said notice by registered or certified mail provided for in subsection (2)(a) of this section, then there shall be notice by one (1) publication in one (1) newspaper of general circulation in the area where the motor vehicles was abandoned. Such notice shall be in a small display ad format, but one (1) advertisement may contain multiple listings of abandoned vehicles.

(3) Sale at public auction. If an abandoned motor vehicle has not been reclaimed within the time allowed, the city shall sell the motor vehicle at a public auction. The proceeds of the sale of an abandoned motor vehicle shall be used for payment of the expenses of the auction, the cost of towing, preserving and storing the motor vehicle, and all notice and publication costs incurred pursuant to this section. Any remainder from the proceeds of the sale shall be held for the owner or lienholder for forty-five (45) days, and then shall be deposited in the general fund.

(4) Disposition of inoperable vehicles. Notwithstanding any other provisions of this chapter, the city may dispose of an abandoned automobile found on public or private property without title and without the notification procedures of this section if the motor vehicle is over five (5) years old and has no engine or is otherwise totally inoperable. (Ord. #83-2011, March 2011)

13-403. Vehicles on private property. (1) Notice to remove. Upon failure of any owner of property within the limits of the city to remove abandoned and inoperable vehicles as required in this chapter, the city, acting through the police department or any appropriate department as designated by the mayor, may serve a notice on the owner, lessee, occupant or person having control of the property, notifying any of them of the existence of the nuisance and ordering the person to remove the vehicle from the property within five (5) days of service of notice, and informing the person of the time and place of the appeal to the Board of Mayor and Aldermen of the City of Jellico or to such other committee designated by appointment of the mayor with the approval of the said board of mayor and aldermen (the "board" or "appeal board" respectively). Such notice shall be served by:

- (a) Personally serving the notice on the owner, lessee, occupant or person having control of such property;
- (b) Mailing the notice to the last known address of the owner, lessee, occupant or person having control of the property by certified mail; or
- (c) Posting the notice on the vehicle or on the property on which the abandoned, wrecked, dismantled, rusted, junked or inoperable motor vehicle is found.

Service of notice by any of the methods listed in this subsection shall be due notice within the meaning of this section; provided, however, that no owner out of possession shall be liable to the penalty set forth in § 13-305 unless there is personal service or such notice was mailed by certified mail.

If the person upon whom the notice to remove was served fails either to remove the vehicle from the property within five (5) days of service of the notice or to appeal the order as herein provided within ten (10) days next following tender of said notice within the time provided to appeal, the city may remedy condition and abate the nuisance by taking into custody the abandoned or inoperable vehicle.

(2) Appeal of order to remove. The owner, lessee, occupant or person having control of the property who is aggrieved by the determination of the order of the city may appeal to the board of appeal board by appearing before the board or appeal board by appearing before the board or appeal board (collectively the "board") at the time and place stated in the notice. The board shall hear and determine the appeal as promptly as practicable but within thirty (30) calendar days of the service of the notice. The decision of the board, together with the reasons, shall be in writing and filed in the office of the city recorder as a public record. The order of the city may be affirmed, reversed or modified by an affirmative vote of the majority of the members of the board. Unless it is made clear that the order is contrary to the provisions of this chapter or other law or ordinance, or is arbitrary and constitutes an abuse of discretion, the board shall affirm the order. An owner, agent or occupant who fails, refuses or neglects to comply with the order shall be in violation of the provisions of this chapter. Any party aggrieved by the action of the board may appeal the decision of the board as provided by law in the cases of certiorari. If the owner or other person described shall fail to remedy such conditions within the time prescribed by the board, the city may remedy the condition and abate the nuisance by taking into custody the abandoned or inoperable vehicle.

(3) Vehicles on private property without consent of property owner. If a motor vehicle has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours, the city may remove the motor vehicle and dispose of it according to the procedure set forth in this chapter.

(4) Right of entry. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the inspecting official

(which shall be such person designated by the mayor) has reasonable cause to believe that there exists in any structure or upon any premises any condition or ordinance violation which constitutes a violation under this section, the official may enter such structure or premises at all reasonable times during the daylight hours to inspect the same or to perform any duty imposed upon the official by this chapter. If such structure or premises are occupied, the official shall first present proper credentials and request entry. If such structure or premises are unoccupied, the official shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the official shall have recourse to every remedy provided by law to secure entry. (Ord. #83-2011, March 2011)

13-404. Liability for expenses when vehicle removed from private property. The owner or occupant of real property on which abandoned or inoperable vehicles have been left and which have been removed by the city shall be liable for the unrecovered expenses incurred by the city in such removal, and upon the failure of the owner or occupant to pay the unrecovered expenses, a lien shall be placed upon the real property (and upon the vehicle in the city's discretion) for the amount of such expenses. (Ord. #83-2011, March 2011)

13-405. Violations and penalty. Any person violating any of the provisions of this abandoned or inoperable vehicles chapter shall be liable for penalties of a monetary fine not to exceed fifty dollars (\$50.00) or the repayment of administrative costs incident to the correction of the municipal violation up to the amount of three hundred twenty-five dollars (\$325.00), or both, for each separate offense. Each day any violation of this code or of any ordinance shall constitute a separate offense. (Ord. #83-2011, March 2011)

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

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. HISTORIC ZONING COMMISSION.

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

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.

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 aldermen selected by the board of 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 membership on the zoning board of appeals. 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 aldermen shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1968 Code, § 11-101)

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. (1968 Code, § 11-102)

14-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1968 Code, § 11-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

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

14-201. Land use to be governed by zoning ordinance. Land use within the City of Jellico shall be governed by the "Zoning Ordinance of the City of Jellico, Tennessee," and any amendments thereto.¹

¹The Jellico Zoning Ordinance and any amendments thereto are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

HISTORIC ZONING COMMISSION

SECTION

14-401. Creation of historic zoning commission.

14-402. Powers and duties.

14-403. Jurisdiction.

14-404. Review of decision.

14-401. Creation of historic zoning commission. (1) In accordance with Tennessee Code Annotated, § 13-7-401 *et seq.* there is hereby created a historic zoning commission for the City of Jellico which shall officially be known and designated as the "Jellico Historic Zoning Commission."

(2) The commission shall be comprised of seven (7) members which consist of an architect, if available; a member of the Jellico Planning Commission at the time of such person's appointment; and the remainder shall be from the community in general.

(3) The members of the commission shall be appointed by the mayor, subject to confirmation by the council. The terms of the members shall be five (5) years, except that the members appointed initially shall be appointed for staggered terms so that the terms of at least one (1) member but not more than two (2) members shall expire each year. All members shall serve without compensation.

(4) The commission shall annually elect from its members a chairman, vice-chairman and a secretary and shall establish a meeting schedule which provides for meetings with sufficient frequency to enable the commission to act without undue delay. The commission may adopt rules and regulations consistent with the provisions of Tennessee Code Annotated, § 13-7-403(a). (Ord. #2019-10, July 2019)

14-402. Powers and duties. (1) The Jellico Historical Zoning Commission shall review all permits for construction, alteration, repair, rehabilitation, relocation or demolition of any structure, or building in the designated zone, and further shall be authorized to review any construction, alteration, repair, relocation or demolition project on any structure not requiring permit in accordance with Tennessee Code Annotated, § 13-7-407(a), and which according to adopted guidelines requires a certificate of appropriateness.

(2) Historic zones and boundaries shall be recommended by the historic zoning commission to the Jellico Planning Commission and council of the City of Jellico.

(3) The commission shall adopt design guidelines for the historical district that specify the architectural and design elements and parameters to be permitted in the historical district. (Ord. #2019-10, July 2019)

14-403. Jurisdiction. The historic zoning commission shall adopt rules and regulations regarding review of construction projects and issuance or denial of certificate of appropriateness for such projects. However, in all cases the commission shall review within thirty (30) days all applications for construction within the designated zone. If a certificate of appropriateness is denied then the applicant shall be informed of the commission's finding in writing no later than seven (7) days after the termination of the thirty (30) day period. (Ord. #2019-10, July 2019)

14-403. Review of decision. Any person who may be aggrieved by any final order or judgment of the historic zoning commission may have such order or judgment reviewed by the courts as provided in Tennessee Code Annotated, title 27, chapter 8. (Ord. #2019-10, July 2019)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

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

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic-control signs, etc.
- 15-108. General requirements for traffic-control signs, etc.
- 15-109. Unauthorized traffic-control signs, etc.
- 15-110. Presumption with respect to traffic-control signs, etc.
- 15-111. School safety patrols.
- 15-112. Driving through funerals or other processions.

¹Municipal code reference

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

²State law references

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

- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Damaging pavements.
- 15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-122. Compliance with financial responsibility law required.
- 15-123. Adoption of state traffic statutes.
- 15-124. All-terrain vehicles.

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. (1968 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. (1968 Code, § 9-106)

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1968 Code, § 9-109)

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

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

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

(c) Upon a roadway designated and signposted by the 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. (1968 Code, § 9-110)

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

On two (2) lane and three (3) lane streets the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1968 Code, § 9-111)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1968 Code, § 9-112)

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

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

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

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

¹Municipal code references

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

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

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.

15-110. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper municipal authority. (1968 Code, § 9-116)

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols, when such patrols are assigned 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. (1968 Code, § 9-117)

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1968 Code, § 9-118)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1968 Code, § 9-120)

15-114. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1968 Code, § 9-121)

15-115. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1968 Code, § 9-122)

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof the operator shall display at the end of such load or projection, in

such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve inches (12") square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1968 Code, § 9-123)

15-117. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1968 Code, § 9-124)

15-117. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Classified and Commercial Driver License Act of 1988."

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

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

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

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

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

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1968 Code, § 9-126)

15-120. 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 or track is likely to damage the surface or foundation of the street. (1968 Code, § 9-119)

15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred pounds (1,500 lbs.), and has the capacity to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

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

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

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

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

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

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

(7) (a) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head, either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(i) Except as provided in subdivisions (a)(ii)-(iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;

(ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1 1/2") in diameter;

(iii) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(iv) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CSPM), or the Snell Foundation.

(b) This section does not apply to persons riding:

(i) Within an enclosed cab;

(ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred pounds (1,500 lbs.) and have the capacity to maintain posted highway speed limits;

(iii) Golf carts; or

(iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

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

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

15-122. Compliance with financial responsibility law required.

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

(2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request evidence of financial

responsibility as required by this section. In case of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" means:

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

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

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

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

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

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

15-123. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated § 16-18-302, the City of Jellico, Tennessee adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated, §§ 55-8-101 through 55-8-131, and §§ 55-8-133 through 55-8-180. Additionally, the City of Jellico adopts Tennessee Code Annotated, §§ 55-8-181 through 55-8-193, §§55-8-199, §§55-9-601 through

55-9-606, and §55-12-139, §§55-21-108, and 55-50-351 by reference as if fully set forth in this section. (Ord. #2019-11-15, Dec. 2019)

15-124. All-terrain vehicles. (1) Definitions. The following definitions shall apply to the use of all-terrain vehicles on the streets, highways, or thoroughfares in the City of Jellico:

(a) "All-terrain vehicles." A properly licensed all terrain vehicle as defined by the Tennessee Code Annotated.

(b) "Street." Any public roadway or highway in the City of Jellico.

(c) "Highway." Any public roadway or street in the City of Jellico.

(2) Operation of all-terrain vehicles shall be subject to condition and restrictions. The operation of all-terrain vehicles on the public streets, highways, and thoroughfares shall be only upon the streets, highways and thoroughfares specified in subsection (3). The operation of all-terrain vehicles shall be only upon when in compliance with the following conditions or restrictions:

(a) Operators must be sixteen (16) years of age or older and must hold and have in their possession at all times when operating such all-terrain vehicle on a public street, highway or thoroughfare, a valid driver's license;

(b) All-terrain vehicles may be operated on the specified streets, highways, and thoroughfares during daylight hours including thirty (30) minutes before dawn and until thirty (30) minutes after dusk.

(c) Riders must stay on designated and posted roads.

(d) The operator of an all-terrain vehicle operated on the streets, highways, or thoroughfares in the City of Jellico must have insurance and carry proof of insurance when operating the all-terrain vehicle on a public street, highway, or thoroughfare.

(e) All riders of all-terrain vehicles operated on the streets, highways, or thoroughfares in the City of Jellico must wear an approved protective helmet of the type specified by the Tennessee Department of Transportation or state law. This shall meet the specification for motorcycle helmets.

(f) The operator of an all-terrain vehicle operated on the streets, highways, or thoroughfares in the City of Jellico must obey all rules of the road applicable to other motor vehicles. This shall include all traffic signals, roadway markings, and anti-noise regulations.

(g) Any all-terrain vehicle operated on the streets, highways, or thoroughfares in the City of Jellico must be operated in a safe manner. The all-terrain vehicle shall be maintained in safe working order.

(h) The city of Jellico Police Department may conduct safety checkpoints to ensure that riders are following regulations and/or laws.

(i) Operators of all-terrain vehicles operated on the public streets, highways, and thoroughfares are subject to any and all applicable laws required and established by the State of Tennessee.

(j) Any violation of state laws and the rules listed here may result in the loss of privileges to operate an all-terrain vehicle on the streets, highways, or thoroughfares

(k) All-terrain vehicles must be properly registered before being operated on the streets, highways, or thoroughfares in the City of Jellico. Registration plate must be properly displayed.

(3) Designated streets. The following described streets, roadways, highways, or thoroughfares as open to all-terrain vehicle use:

(a) Indian Mountain Road from the City Limits to Dairy Avenue.

(b) Florence Avenue to Sunset Trail.

(c) Sunset Trail to Fifth Street.

(d) Fifth Street (US 25 W) from Sunset Trail to the city limits near the Pizza Spot.

(e) Tennessee Avenue.

(f) Pine Mountain Road from Douglas Lane to the city limits.

(g) South Main Street from Florence Avenue South on 297 to the city limits near Jellico Christian Academy.

(4) Prohibited locations. The operation of an all-terrain vehicle on the streets, highways, or thoroughfares in the City of Jellico on any street or portion of any street not designated as open to all-terrain vehicles in subsection (3) above is strictly prohibited.

(5) Violations prohibited, punishment. Any violation of provisions of this section shall be punishable by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) plus court costs and any other punishment that the court may prescribe. (Ord. #2019-11-14, Dec. 2019)

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. (1968 Code, § 9-102)

15-202. Operation of authorized emergency vehicles.¹ (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

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

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

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1968 Code, § 9-103)

¹Municipal 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 feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1968 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 police officer. (1968 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

- 15-301. In general.
- 15-302. On major thoroughfares.
- 15-303. In school zones.
- 15-304. In hospital zones.
- 15-305. In ballpark and playground zones.
- 15-306. At intersections.
- 15-307. Violations and penalty.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any street, highway or public road in this city in excess of twenty miles per hour (20 mph) except as otherwise regulated by this chapter or where official signs have been posted indicating other speed limits in which cases those speed limits shall apply. (Ord. #97-2011, Aug. 2011)

15-302. On major thoroughfares. (1) It shall be unlawful for any person to operate or drive a motor vehicle upon the portion of U.S. 25 W known as North Main Street, located within the corporate limits of this city, in excess of twenty-five miles per hour (25 mph).

(2) It shall be unlawful for any person to operate or drive a motor vehicle upon the portion of U.S. 25 W known as Fifth Street between the intersection of North Main Street and the intersection of Hardin Street, located within the corporate limits of this city, in excess of thirty miles per hour (30 mph).

(3) It shall be unlawful for any person to operate or drive a motor vehicle upon the portion of U.S. 25 W known as Fifth Street between the intersection of Hardin Street and the intersection of Tennessee Street, located within the corporate limits of this city, in excess of thirty-five miles per hour (35 mph).

(4) It shall be unlawful for any person to operate or drive a motor vehicle upon the portion of U.S. 25 W known as Fifth Street between the intersection of Tennessee Street and the city limit on Bowlin Straight, located within the corporate limits of this city, in excess of forty-five miles per hour (45 mph).

(5) It shall be unlawful for any person to operate or drive a motor vehicle upon the portion of State Route 297 known as South Main Street, located within the corporate limits of this city, in excess of thirty miles per hour (30 mph). (Ord. #6-1998, Aug. 1998)

15-303. In school zones. It shall be unlawful for any person to operate or drive a motor vehicle in a school zone in excess of fifteen miles per hour (15 mph) when children are present, during the school's opening and closing hours, during recess or during such other times as may be regulated by official signs and/or yellow flashing warning lights. (Ord. #97-2011, Aug. 2011)

15-304. In hospital zones. It shall be unlawful for any person to operate or drive a motor vehicle upon Hospital Road in excess of fifteen miles per hour (15 mph). (Ord. #97-2011, Aug. 2011)

15-305. In ballpark and playground zones. It shall be unlawful for any person to operate or drive a motor vehicle in a ballpark or playground zone in excess of fifteen miles per hour (15 mph) when children are present, when organized activities are conducted or during such other times as may be regulated by official signs. In addition, the speed limit in Veterans Park shall be five miles per hour (5 mph). (Ord. #97-2011, Aug. 2011)

15-306. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection in excess of fifteen miles per hour (15 mph) unless such person is driving on a street regulated by traffic control signals or signs which require traffic on the intersecting streets to stop or yield. (Ord. #97-2011, Aug. 2011)

15-307. Violations and penalty. Any person convicted of violating the provisions of this chapter shall be subject to a fine not to exceed the maximum fine permissible under state law. (Ord. #97-2011, Aug. 2011)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

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

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

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1968 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. (1968 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two (2) roadways. (1968 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1968 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1968 Code, § 9-305)

¹State 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.¹ 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. (1968 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. (1968 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. (1968 Code, § 9-403)

¹Municipal 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 feet (15') from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1968 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. (1968 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. (1968 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.

(4) Steady red with green arrow:

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

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

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1968 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 in 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. (1968 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. (1968 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,¹ except in an emergency. (1968 Code, § 9-410)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Restricted parking.
- 15-607. 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 inches (18") of the right edge or curb of the street. On one-way streets where the municipality has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

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

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street or in a public parking lot. (1968 Code, § 9-501, as amended by Ord. #2-1995, June 1995)

15-602. Angle parking. On those streets which have been signed or marked by the municipality for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1968 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. (1968 Code, § 9-503)

15-604. Where prohibited. (1) No person shall stop, stand or park a vehicle in any of the following places:

- (a) On a sidewalk;
- (b) In front of a public or private driveway;
- (c) Within an intersection;
- (d) Within fifteen feet (15') of a fire hydrant;
- (e) Within a pedestrian crosswalk;
- (f) Within ten feet (10') of a pedestrian crosswalk at an intersection;
- (g) Within thirty feet (30') upon the approach to any stop sign or traffic-control signal located at the side of the roadway;
- (h) Within fifty feet (50') of the nearest rail of a railroad crossing;
- (i) Within twenty feet (20') of the driveway entrance to any fire station and on the side of a street opposite the entrance to a fire station within seventy-five feet (75') of such entrance when properly signposted;
- (j) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (k) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (l) Upon any bridge;
- (m) In a parking space clearly identified by an official sign or marking as being reserved for the physically handicapped, unless, however, the vehicle as set forth in Tennessee Code Annotated, § 55-21-103, or a disabled veteran's license plate issued under Tennessee Code Annotated, § 55-4-237;
- (n) At any place where official signs prohibit stopping or parking;
- (o) At any place where white, yellow or red paint on the roadway or curb prohibit stopping or parking.

(2) The provisions of this section shall not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a road, street or highway in such manner and to extent that it is impossible to avoid stopping and temporarily leaving such vehicle in such position.

(3) The provisions of this section shall not apply to the driver of any vehicle which has stopped as necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device.

(4) The provisions of this section shall not apply to an emergency vehicle, solid waste vehicle or other governmental maintenance, utility or service vehicle; provided, that such vehicle shall maintain flashing hazard or

warning lights at all times while it is stopped; provided further, that such vehicle is stopped so that a clear view of such stopped vehicle shall be available from a safe distance in either direction. (Ord. #2-1995, June 1995)

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. (1968 Code, § 9-505)

15-606. Restricted parking. In the absence of an official sign to the contrary which has been installed by the municipality, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the board of mayor and aldermen, parking shall be limited to one (1) hour on North Main Street, on South Main Street to the East of Beaver Street, and on Fifth Street to the West of Baker Street. (Ord. #2-1995, June 1995)

15-607. 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. (1968 Code, § 9-512)

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. Disposal of "abandoned motor vehicles."
- 15-706. Violations and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the 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. (1968 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. (1968 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. (1968 Code, § 9-603, modified)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any

¹State law reference

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

vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and a storage costs of one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1968 Code, § 9-604)

15-705. Disposal of "abandoned motor vehicles." "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1968 Code, § 9-605)

15-706. Violations and penalty. Any violation of this title shall be a civil offense punishable as follows:

(1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Other parking violations excluding handicapped parking. For other parking violations, excluding handicapped 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). (modified)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. STREET COMMITTEE.
2. MISCELLANEOUS.
3. EXCAVATIONS AND CUTS.

CHAPTER 1

STREET COMMITTEE

SECTION

16-101. Street committee.

16-101. Street committee. The street committee shall have and exercise general supervision over matters, personnel, and property concerning streets and other public ways and places, and shall be responsible to the board of mayor and aldermen for submitting proposals, plans, programs, and other appropriate reports involving any of the above items. (1968 Code, § 12-101)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

CHAPTER 2

MISCELLANEOUS

SECTION

- 16-201. Obstructing streets, alleys, or sidewalks prohibited.
- 16-202. Trees projecting over streets, etc., regulated.
- 16-203. Trees, etc., obstructing view at intersections prohibited.
- 16-204. Projecting signs and awnings, etc., restricted.
- 16-205. Banners and signs across streets and alleys restricted.
- 16-206. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-207. Littering streets, alleys, or sidewalks prohibited.
- 16-208. Obstruction of drainage ditches.
- 16-209. Abutting occupants to keep sidewalks clean, etc.
- 16-210. Parades regulated.
- 16-211. Animals and vehicles on sidewalks.
- 16-212. Fires in streets, etc.
- 16-213. Costs charged to offenders.
- 16-214. Loitering prohibited.
- 16-215. Shopping carts on public streets and sidewalks prohibited.

16-201. 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. (1968 Code, § 12-301)

16-202. 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 at a height of less than fourteen feet (14'). (1968 Code, § 12-302)

16-203. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, 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. (1968 Code, § 12-303)

16-204. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way

shall be erected subject to the requirements of the building code.¹ (1968 Code, § 12-304)

16-205. 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 board of mayor and aldermen. (1968 Code, § 12-305)

16-206. 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. (1968 Code, § 12-306)

16-207. 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. (1968 Code, § 12-307)

16-208. 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. (1968 Code, § 12-308)

16-209. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1968 Code, § 12-309)

16-210. 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 immediately clean up the resulting litter. (1968 Code, § 12-310)

¹Municipal code reference
Building code: title 12, chapter 1.

16-211. 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. (1968 Code, § 12-312)

16-212. 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. (1968 Code, § 12-313)

16-213. Costs charged to offenders. When any person is convicted of violating any provision of this chapter, he shall immediately take such corrective action as necessary to abate the condition which gave rise to the condition. If such action is not completed by the offender within a reasonable time to be determined by the city recorder, then the condition shall be abated by the city or at its expense, and the offender shall reimburse the city for all reasonable costs incurred. Nothing in this section shall be deemed to relieve the offender of his liability for any fines which may have been or may be judicially assessed. (1968 Code, § 12-314)

16-214. Loitering prohibited. (1) No person shall willfully loaf, loiter, idle, lounge, swing or promenade in or near or in front of any public place of business, worship or other public place or other place or activity inviting patronage or in, on or near any public street, highway, bridge, sidewalk or other public thoroughfare or public place in such a manner as to obstruct or impede the normal or free use by any other person of such public place or in such a manner as to inordinately obstruct or impede or unreasonably prohibit the free exercise of commercial trade or other lawful activity in, on or near any such public place. Anyone convicted of violating this section shall be guilty of a misdemeanor.

(2) The prohibition in subsection (1) above shall not apply to any person:

(a) Sitting or lying on a public sidewalk due to a medical emergency;

(b) Who, due to a disability, is using a wheelchair, walker or similar device to move about on the sidewalk;

(c) Operating or patronizing a legal commercial establishment conducted on the public sidewalk in accordance with a permit issued by the city;

(d) Sitting on a chair or bench on a public sidewalk provided by a public agency or by the abutting property owner; or

(e) Participating in or watching a parade, performance, or other event authorized by the city.

(3) Any violation of this section shall be punished in the same manner as other misdemeanor violations of city ordinances.

Any other provision of any ordinance of the City of Jellico in conflict with this section shall henceforth be deemed to be likewise amended accordingly so as to give meaning, consistency, and effect to this amendment. (Ord. #96-2011, July 2011)

16-215. Shopping carts on public streets and sidewalks prohibited. (1) Purpose. The purpose of this section is to provide for the regulation of street and sidewalk activities in downtown Jellico, and in certain other districts of the City of Jellico, in order to more fully promote the public interest by contributing to an active and attractive pedestrian environment. In recognition thereof, reasonable regulation of street and sidewalk activity is necessary to protect the public health, safety, and welfare and the interests of the City of Jellico in the primary use of public streets and sidewalks for use by vehicular and pedestrian traffic.

(2) Prohibited use. It is unlawful for any person, firm, corporation, or association to engage in the use of, or use, upon the public ways of the City of Jellico any shopping cart as defined in subsection (3) of this section.

(3) Definitions. For the purpose of implementing and interpreting this ordinance, the following definitions shall apply:

(a) Shopping cart means a four wheel buggy, cart or device belonging to a grocery merchant, clothing merchant, or general merchandise merchant, or a store, or business that has a business located within or without the City of Jellico, Tennessee.

(b) Merchant means any type of business.

(c) Abandon shall mean leaving or abandoning any cart upon a public way or upon the property of another person.

(d) Public way. A public ways means and includes all portions of streets, alleys, sidewalks, trails and parking lots of the Town of Jellico and, in addition, shall include privately owned streets, roads, alleys, sidewalks, and trails that are provided for public use or access.

(e) Use shall mean pushing, pulling, towing any shopping cart, or causing to be pushed, pulled or towed, any shopping cart, upon any public way.

(f) Use by another shall mean allowing any other person to use, remove, or take any cart off-premises for any use prohibited herein.

(4) Violation of ordinance. Any person or persons who use any shopping cart as defined in subsection (3) of this section, upon any public way shall be guilty of a violation of this section.

(5) Exceptions and permitted use. Any person may use a shopping cart to transport goods purchased at a business location to transport those purchased goods to an automobile or other location directly in front of or beside the

business where the good are purchased, provided that the cart is immediately returned to the merchant where it was obtained.

(6) Penalty. The penalty for improper use of a shopping cart in violation of this section shall be a fine of up to fifty dollars (\$50.00), in the discretion of the court, in addition to any court costs imposed by the city court. The penalty for abandoning any shopping cart shall be a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) in the discretion of the court, in addition to any court cost imposed by the city court.

(7) Collection of abandoned carts. Abandoned carts will be collected by the City of Jellico and impounded. An impound fee of ten dollars (\$10.00) per cart shall be charged for the first offense. Any second or subsequent offense will result in an impound fee of twenty-five dollars (\$25.00) per cart. (Ord. #07-30-2020, Feb. 2021)

CHAPTER 3

EXCAVATIONS AND CUTS¹

SECTION

- 16-301. Permit required.
- 16-302. Applications.
- 16-303. Fee.
- 16-304. Bond or letter of credit.
- 16-305. Manner of excavating, barricades, lights, temporary sidewalks.
- 16-306. Restoration of streets, etc.
- 16-307. Insurance.
- 16-308. Time limits.
- 16-309. Supervision.
- 16-310. Other damage to city streets.
- 16-311. Compliance with other laws.

16-301. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any cut or excavation, (including driveway connections), in any street, alley, or public place, or to tunnel under any street, alley, or public place without first obtaining a written 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 practically be obtained beforehand. The person shall thereafter apply for a written permit on the first regular business day on which the office of the city recorder is open for business and said written permit shall be retroactive to the date when the work was begun. (Ord. #14-2002, Dec. 2002)

16-302. Applications. Applications for such written permits shall be made to the office of the city recorder or such person as may designated by the board of mayor and aldermen, 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

¹State 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).

actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. The application and permit shall be considered an "agreement" between the city and the person, firm, corporation, association, or other. (Ord. #14-2002, Dec. 2002)

16-303. Fee. The fee for such permits shall be ten dollars (\$10.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five feet (25') in length; and fifty cents (\$0.50) 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. (Ord. #14-2002, Dec. 2002)

16-304. Bond or letter of credit. The City of Jellico may require that no permit be issued unless and until the applicant has deposited with the city recorder a bond, running bond, or letter of credit in favor of the city, in an amount to be determined by the streets committee, that is adequate to cover the cost of restoration. No excavation project may be deemed completed until inspected and approved by the streets committee or their designee. Should the street repair not pass inspection, the City of Jellico shall notify the person, firm, corporation, association, or others that they have ten (10) days to make the necessary repairs. In the event that the repairs are not approved, within the ten (10) day time limit, the city will have the repairs made, with the expense of the repairs charged against the bond or letter of credit. Failure of the City of Jellico to require a bond or letter of credit shall in no way affect the right of the city to require repairs or to make repairs and charge the cost of same to the person, firm or corporation making the excavation. (Ord. #14-2002, Dec. 2002)

16-305. Manner of excavating, barricades, 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. (Ord. #14-2002, Dec. 2002)

16-306. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in the city shall restore said street, alley, or public place to its original condition. In case of unreasonable delay in restoring the street, alley, or public place, the City of Jellico shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled

properly within twenty-four (24) hours, the city will do the work and charge the expense of doing the same to the person, firm, corporation, association, or others. Failure to pay the cost of the repair within ten (10) days will result in the city charging the cost against the bond or letter of credit. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. Failure to pay the cost of the repair within ten days (10) days will result in the city charging the cost against the bond or letter of credit. (Ord. #14-2002, Dec. 2002)

16-307. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars (\$300,000.00) for each person, and not less than seven hundred thousand dollars (\$700,000.00) for each accident, and for property damages not less than one hundred thousand dollars (\$100,000.00) for each accident.

16-308. 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. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted in writing by the streets committee. (Ord. #14-2002, Dec. 2002)

16-309. Supervision. The streets committee, or such other persons as they may designate, shall inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (Ord. #14-2002, Dec. 2002)

16-310. Other damage to city streets. It shall be unlawful for any person, firm, corporation, association, or others to damage city streets. Any person, firm, corporation, association, or others determined to have damaged city streets, including sidewalks and curbs, shall be given twenty-four (24) hours

notice of the damage and a reasonable opportunity to restore the street to its original condition. Failure to make the necessary repair will result in the city making the repair and billing the offender for payment of the damage. The streets committee is authorized to make repairs without notice where, in their judgment, the damage constitutes an emergency situation and is a safety hazard for the motoring public. (Ord. #14-2002, Dec. 2002)

16-311. Compliance with other laws. It shall be the responsibility of any person, firm or corporation making any excavation or tunnel, (including driveway connections), to obtain any other permits or permission from any other governmental agency or private property owner prior to proceeding with said excavation. Obtaining a city permit shall not relieve the excavator from this responsibility. (Ord. #14-2002, Dec. 2002)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Service fees.
- 17-110. Penalty for non-payment.
- 17-111. Hazardous wastes.
- 17-112. Brush, leaves, loose trash.
- 17-113. Violations and penalty.

17-101. Refuse defined. "Refuse" shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1968 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. (1968 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

¹Municipal code reference

Property maintenance regulations: title 13.

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 container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a container until such refuse has been drained of all free liquids. Tree limbs and trimmings, hedge and shrubbery clippings, brush, and similar materials when deposited for collection shall be stored in neat piles with thorny vegetation placed in separate piles from other tree and shrubbery trimmings. Each tree and shrubbery limb or branch shall be cut in lengths of not more than five feet (5') and no one stump, log, branch or limb shall weigh no more than fifty (50) pounds. (Ord. #7-2003, Oct. 2003)

17-104. Location of containers. Where alleys are used by the municipal refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the 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. (1968 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. (1968 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. (1968 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. (1968 Code, § 8-107)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (1968 Code, § 8-108)

17-109. Service fees. (1) Refuse collection fees shall be at such rates as are from time to time set by the board of mayor and aldermen by resolution.

(2) Billing of service fee. The service fee for collection and removal of refuse by the City of Jellico, shall be included as a separate item each month on the bills rendered by the Jellico Electric and Water System, for electricity, water, and sewer bills. The aforesaid charge shall be rendered on the first utility bills sent from and after July 1st, 1990, and for each month thereafter.

(3) Refuse delivered into corporate limits of the City of Jellico, Tennessee for disposal will be considered littering. Penalty for littering shall be fifty dollars (\$50.00) plus cost.

(4) The board of mayor and aldermen shall by resolution within thirty days (30) hereafter establish such definitions, guidelines, rules and regulations as may be necessary to implement this section and as may be necessary for the collection and assessing of the fees established herein. This section and fees imposed hereby shall be administered in conformity with such resolution as the board may adopt. (Ord. #4-90, June 1990, as amended by Ord. #6, July 1993, Ord. #41-2007, Aug. 2007, and Ord. #107-2012, Oct. 2012, modified)

17-110. Penalty for non-payment. (1) It is unlawful to refuse or neglect to pay the monthly garbage service user fee when billed. Each user shall be given ten (10) days from the billing date to make payment to the city.

(2) Each thirty (30) day period that the service fee remains unpaid shall subject the owner or the tenant, whomever is the user, to a separate fifty dollar (\$50.00) civil fine for non-payment. (Ord. #1-2003, March 2003)

17-111. Hazardous wastes. The City of Jellico, Tennessee will eliminate all "limited quantity hazardous wastes" from the residential garbage stream. Limited quantity hazardous waste is defined in 401KAR31:010, Section 5(1): "A generator is a limited quantity generator in a calendar month if he generates less than one hundred (100) kilograms of hazardous waste in that month." Limited quantity generators include, but are not limited to service stations, automotive body repair shops, dry cleaners, painting operations, "job" plating shops, funeral homes, drug stores, restaurants, motels, clothing manufacturers, beauty shops, dry goods stores, wholesale and retail grocery stores, hospitals and clinics, lending institutions, and furniture stores. The City of Jellico, Tennessee shall also abide by all permit restrictions set forth in permit #118.10, for the hauling of garbage to Tri-County Sanitary Landfill, Corbin, Kentucky. (Ord. #9-88, Dec. 1988)

17-112. Brush, leaves, loose trash. (1) All brush and tree trimmings must be cut to maximum four foot (4') lengths and tied in bundles if city pickup is required. Leaves must be baled, bagged or placed in containers. The city crew will not be required to pick up loose trash except due to spillage which occurs in the process of emptying containers.

(2) Brush pickup shall be scheduled one (1) time in the spring of each year during the week of the annual cleanup and one (1) time during the fall of each year during fall cleanup week. The city shall announce the dates for the brush pickup by posting notice at the main lobby of the Jellico Municipal Building one (1) week in advance of the beginning of the brush pickup. Property owners must call the city hall and schedule brush a pickup during this week. The city crew will not remove brush that has been cut by contractors or persons hired under contract with property owners. Brush pickup will be limited to one (1) truck load per residence during the week of the cleanup. All brush, leaves and yard clippings to be picked up must be placed at the curb, but not in the gutter or street, for pickup. The city crew will not pick up stumps, tree trunks, or branches with a diameter of greater than three inches (3") at either end nor will crews pick up brush in excess of four feet (4') in length.

(4) Placing leaves, trash, yard waste, or other rubbish in storm water drains, ditches or culverts or in sewer drains, shall be a violation of this ordinance. Each day that refuse is left in an area prohibited in subsection (3) of this section shall constitute a separate violation.

(4) Violations of § 17-112(3) shall be punishable by fine of fifty dollars (\$50.00) per violation. (Ord. #2019-11, June 2019)

17-113. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 18**WATER AND SEWER¹****CHAPTER**

1. WATER AND SEWER SYSTEM ADMINISTRATION.
2. GENERAL WASTEWATER REGULATIONS.
3. GENERAL/COMMERCIAL WASTEWATER REGULATIONS.
4. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.
5. LOW PRESSURE SEWER SYSTEMS.
6. MISCELLANEOUS CHARGES AND FEES SCHEDULE.
7. SERVICE APPLICATIONS.
8. EMERGENCY DROUGHT AND/OR WATER SHORTAGE PLAN.

WATER AND SEWER SYSTEM ADMINISTRATION**SECTION**

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Application and contract for service.
- 18-104. Service charges for temporary service.
- 18-105. Connection charges.
- 18-106. Water and sewer main extensions.
- 18-107. Water and sewer main extension variances.
- 18-108. Meters.
- 18-109. Meter tests.
- 18-110. Multiple services through a single meter.
- 18-111. Customer billing and payment policy.
- 18-112. Termination or refusal of service.
- 18-113. Termination of service by customer.
- 18-114. Access to customers' premises.
- 18-115. Inspections.
- 18-116. Customer's responsibility for system's property.
- 18-117. Customer's responsibility for violations.
- 18-118. Supply and resale of water.
- 18-119. Unauthorized use of or interference with water supply.
- 18-120. Limited use of unmetered private fire line.

¹Municipal code references

Building, utility and residential codes: title 12.

Cross-connections: title 18, chapter 4.

Refuse disposal: title 17.

Wastewater regulations: title 18, chapter 3.

- 18-121. Damages to property due to water pressure.
- 18-122. Liability for cutoff failures.
- 18-123. Restricted use of water.
- 18-124. Interruption of service.
- 18-125. Schedule of rates.

18-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water and sewer service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise.

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

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

(3) "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.

(4) "Service line" shall consist of the pipe line extending from any water or sewer main of the city 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 city's water main to and including the meter and meter box.

18-103. Application and contract for service. Each prospective customer desiring water and/or sewer service will be required to sign a standard form contract and pay a nonrefundable customer processing fee of _____ (\$_____) [**service deposit of _____ (\$_____)**] before service is supplied. [**The service deposit shall be refundable if and only if the city cannot supply service in accordance with the terms of this chapter.**] If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the city for the expense incurred by reason of its endeavor to furnish such service.

The receipt of a prospective customer's application for service shall not obligate the city to render the service applied for. [**If the service applied for cannot be supplied in accordance with the provisions of this chapter, the liability of the city to the applicant shall be limited to the return of any service deposit made by such applicant.**]

18-104. 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 and/or sewer service.

18-105. Connection charges. Service lines will be laid by the city from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the city.

Before a new water or sewer service line will be laid by the city, the applicant shall pay a nonrefundable connection charge of _____ (\$_____).

When a service line is completed, the city shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the city. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer.

18-106. Water and sewer main extensions.¹ Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

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

Upon completion of such extensions and their approval by the city, such water and/or sewer mains shall become the property of the city. The persons paying the cost of constructing such mains shall execute any written instruments requested by the city to provide evidence of the city's title to such mains. In consideration of such mains being transferred to it, the city shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of the mains.

18-107. Water and sewer main extension variances. Whenever the board of mayor and aldermen is of the opinion that it is to the best interest of the city and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the board of mayor and aldermen.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be

¹Municipal code reference

Construction of building sewers: title 18, chapter 2.

construed as requiring the city to make such extensions or to furnish service to any person or persons.

18-108. Meters. All meters shall be installed, tested, repaired, and removed only by the city.

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 city. 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.

18-109. Meter tests. The city 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 city 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", 1" | \$12.00 |
| 1-1/2", 2" | 15.00 |
| 3" | 18.00 |
| 4" | 22.00 |
| 6" and over | 30.00 |

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the city.

18-110. Multiple services through a single meter. No customer shall supply water service to more than one dwelling, premise, duplex unit, apartment or other multiple dwelling unit from a single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one (1) dwelling, premise, duplex unit, apartment or other multiple dwelling unit to be served through a single service line and meter, the amount of water used by all the dwellings, premises, duplex units, apartments or other multiple dwelling units served through a single service line and meter shall be allocated to each separate dwelling, premise, duplex unit, apartment or other multiple dwelling unit served. The water charge of each such dwelling, premise, duplex unit, apartment or other multiple dwelling unit thus served shall be computed just as if each such dwelling, premise, duplex unit, apartment or other multiple dwelling unit had received through a separately metered service the amount of water so allocated to it, such computation to be made at the city's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling, premise, duplex unit, apartment or other multiple dwelling unit served through a single service line meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied.

18-111. Customer billing and payment policy. Water and sewer bills shall be rendered monthly and shall designate a standard net payment period for all members of not less than _____ () days after the date of the bill. Failure to receive a bill will not release a customer from payment obligation. There is established for all members a late payment charge not to exceed _____ (%) for any portion of the bill paid after the net payment period.

Payment must be received in the water and sewer department no later than 4:30 P.M. on the due date. If the due date falls on Saturday, Sunday, or a holiday, net payment will be accepted if paid on the next business day no later than 4:30 P.M.

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 city reserves the right to render an estimated bill based on the best information available.

18-112. Termination or refusal of service. (1) Basis of termination or refusal. The city shall have the right to discontinue water and sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (a) These rules and regulations, including the nonpayment of bills.
- (b) The customer's application for service.
- (c) The customer's contract for service.

The right to discontinue service shall apply to all water and sewer services received through collective single connections or services, even though more than one (1) customer or tenant is furnished services therefrom, and even though the delinquency or violation is limited to only one (1) such customer or tenant.

(2) Termination of service. Reasonable written notice shall be given to the customer before termination of water service according to the following terms and conditions:

(a) Written notice of termination (cut-off) shall be given to the customer at least five (5) days prior to the scheduled date of termination. The cut-off notice shall specify the reason for the cut-off, and

(i) The amount due, including other charges.

(ii) The last date to avoid service termination.

(iii) Notification of the customer's right to a hearing prior to service termination, and, in the case of nonpayment of bills, of the availability of special counseling for emergency and hardship cases.

(b) In the case of termination for nonpayment of bills, the employee carrying out the termination procedure will attempt before disconnecting service to contact the customer at the premises in a final effort to collect payment and avoid termination. If the customer is not at home, service may be left connected for one (1) additional day and a further notice left at a location conspicuous to the customer.

(c) Hearings for service termination, including for nonpayment of bills, will be held by appointment at the company office between the hours of 8:00 A.M. and 4:30 P.M. on any business day, or by special request and appointment a hearing may be scheduled outside those hours.

(d) Termination will not be made on any preceding day when the water and sewer department is scheduled to be closed.

(e) If a customer does not request a hearing, or, in the case of nonpayment of a bill, does not make payment of the bill, or does not otherwise correct the problem that resulted in the notice of termination in a manner satisfactory to the water and sewer department, the same shall proceed on schedule with service termination.

(f) Service termination for any reason shall be reconnected only after the payment of all charges due or satisfactory arrangements for payment have been made, or the correction of the problem that resulted in the termination of service in a manner satisfactory to the water and sewer department, plus the payment of a reconnection charge of _____ (\$_____) if the reconnection is made during regular business hours, or _____ (\$_____) if the reconnection is made after regular business hours.

18-113. 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 city 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 city 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 city 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, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the city 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.

18-114. Access to customers' premises. The city'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 city, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations.

18-115. Inspections. The city shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The city reserves the right to refuse service or to discontinue service to any premises not in compliance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made.

18-116. 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 city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost of necessary repairs or replacements shall be paid by the customer.

18-117. Customer's responsibility for violations. Where the city furnishes water and/or sewer 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.

18-118. Supply and resale of water. All water shall be supplied within the city exclusively by the city, 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 city.

18-119. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the city's's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the city.

18-120. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the city.

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

18-121. Damages to property due to water pressure. The city 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 city's's water mains.

18-122. Liability for cutoff failures. The city's'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 city has failed to cut off such service.

(2) The city has attempted to cut off a service but such service has not been completely cut off.

(3) The city 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 city's's main.

Except to the extent stated above, the city 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 city's's cutoff. Also, the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off.

18-123. Restricted use of water. In times of emergencies or in times of water shortage, the city 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.

18-124. Interruption of service. The city will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The city 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 systems, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The city 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.

18-125. Schedule of rates.¹ All water and sewer service shall be furnished under such rate schedules as the city may from time to time adopt by appropriate ordinance.²

¹Administrative ordinances are of record in the office of the recorder.

²State law reference
Tennessee Code Annotated, § 7-35-414(b).

CHAPTER 2

GENERAL WASTEWATER REGULATIONS

SECTION

- 18-201. Purpose and policy.
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18-201. Purpose and policy. This chapter sets forth uniform requirements for users of the City of Jellico, 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 soils, or otherwise be incompatible with the treatment facility;
- (4) To protect facility personnel who may be affected by wastewater, wastewater borne components, 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 TDEC issued permit conditions, sludge and biosolid use and 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 Jellico 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 2 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 2 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.

18-202. Administrative. Except as otherwise provided herein, the Mayor of the city shall administer, implement, and enforce the provisions of this chapter.

18-203. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Administrator." The administrator or the United States Environmental Protection Agency.

(2) "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.

(3) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(4) "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 paragraphs (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.

(5) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-209 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.

(6) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees Celsius (20° C) expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(7) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(8) "Categorical standards." The National Categorical Pretreatment Standards as found in 40 CFR chapter I, subchapter N, parts 405-471.

(9) "City." The city board consisting of the Mayor and Aldermen, City of Jellico, Tennessee.

(10) "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.

(11) "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.

(12) "Composite sample." A sample composed of two or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(13) "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 CFR 403.11.

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

(15) "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.

(16) "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.

(17) "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.

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

(19) "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.

(20) "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.

(21) Fats, Oils, and Grease (FOG). Organic polar compounds derived from animal and/or plant sources. If lab testing is required to quantify the amount of FOG, the Hexane extractable material test is to be used or an equivalent 40 CFR 136 approved method.

(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 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 (50) g.p.m. (gallons per minute) or less and is generally located inside the building.

(25) "Grease trap." An interceptor whose rated flow is fifty (50) g.p.m. 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 non-domestic 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 Mayor of Jellico who is the chief administrative officer of the local hearing authority.

(35) "Local hearing authority." The city board will administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-305.

(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) "NAICS, North American Industrial Classification System." A system of industrial classification jointly agreed upon by Canada, Mexico and

the United States. It replaces the Standard Industrial Classification (SIC) system.

(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 parts (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph 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 paragraph

(39) "NPDES (National Pollution Discharge Elimination System)." 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.

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

(44) "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).

(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 CFR 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 (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 (63), below.

(50) "Shall" is mandatory; "may" is permissive.

(51) "Sharps" means any object contaminated with a pathogen or that may become contaminated with a pathogen through handling or during transportation and also capable of cutting or penetrating skin or a packaging material. Sharps includes needles, syringes, scalpels, broken glass, culture slides, culture dishes, broken capillary tubes, broken rigid plastic, and exposed ends of dental wires.

(52) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or

(b) Any other industrial user that: discharges an average of 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 wastestream which makes up 5 percent 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 CFR 403.3(f)) 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 CFR 403.8(f)(6)).

(53) "Significant noncompliance." Per 0400-40-14-.08(6)(b)8.

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken for each parameter taken during a six-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 § 18-305(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 minutes (50) minutes or exceed limits by more than 0.5 s.u. more than eight times in four hours.

(54) "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.

(55) "Standard Industrial Classification (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(56) "State." The State of Tennessee.

(57) "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.

(58) "Stormwater." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(59) "Superintendent." The public works superintendent of the city who supervises the operation of the wastewater facility and who is charged with certain duties and responsibilities by this chapter.

(60) "Surcharge." An additional fee assessed to a user who discharges compatible pollutants at concentrations above the established surcharge limits. Surcharge limits are the level at which the permit holder will be billed higher rates to offset the cost of treating wastewater which exceeds the surcharge limits. Exceeding a surcharge limit but not a monthly average or daily maximum limit will not result in enforcement action.

(61) "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.

(62) "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.

(63) "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.

(64) "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, Tennessee Code Annotated, § 68-221-201.

(65) "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.

(66) "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.

(67) "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.

(68) "0400-44-14." Chapter 0400-40-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements.

18-204. 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 suitable treatment has been provided in accordance with provisions of this ordinance 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 (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) Discharging into the sanitary sewer without permission of the city is strictly prohibited and is deemed "theft of service."

(6) Where a public sanitary sewer is not available under the provisions of (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-205 of this ordinance.

(7) 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.

(8) Users have a duty to comply with the provisions of this ordinance in order for the city to fulfill the stated policy and purpose. Significant Industrial Users must comply with the provisions of this ordinance and applicable state and federal rules according to the nature of the industrial discharge.

(9) The city may inspect the facilities, including service lines or building sewer, 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, with proper identification, ready access at all reasonable times to all parts of the premises for the purpose of inspection.

18-205. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-204(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.

18-206. Connection to public sewers. (1) Application for service.

(a) There shall be two (2) classifications of service; (1) residential and (2) 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 ordinance. 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 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, area way 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 this ordinance shall be completely and permanently disconnected within sixty (60) days of the effective day of this ordinance. 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 ground water 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 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 eighteen and two-eighths (18-2/8") inch 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") 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 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 eighteen and two eighths (18-2/8) 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 Section 18-207 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. (a) 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 ground water to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(b) 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.

(c) The point of division between the building sewer and the city owned sewer tap or service connection shall be at the property line, right-of-way line, property line sewer cleanout, or such point in this general area as identified by the superintendent. The city owned tap or service line connection cannot extend onto private property except that minimal distance to the edge of rights-of-way, easements, or that distance necessary to cross other city utility lines and provide a location unencumbered by other underground city utilities where the user can make a connection to the building sewer without risk of damage to those other city utilities.

(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 Sewerage Works, located at <http://www.tennessee.gov/environment/section/wr-water-resources>. 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.

18-207. Septic tank effluent pump systems (STEP). Septic Tank Effluent Pump (STEP) system will be the basic sewer system design.

(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 TDEC design criteria for STEP systems as provided by the superintendent.

(3) Costs. STEP 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 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. (a) Home or business owners shall follow the STEP 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 tank.

(d) Prohibited uses of the STEP 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 years shall be billed to the homeowner.

(7) Additional charges. The city shall be responsible for maintenance of the STEP 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 including but not limited to transportation, labor, materials, excavation, subcontractors, engineering fees, cleanup expenses, and other expenses related to the service call. In addition if the city receives regulatory fines related to equipment failure and sewage overflows all such fines will be passed on to the user.

18-208. Regulation of holding tank waste disposal or trucked in waste. No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste.

18-209. 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

or the provisions of this section or other pretreatment standard may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-218 or 18-305.

(2) Specific prohibitions. 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, wastestreams with a closed cup flash point of less than one hundred forty degrees Fahrenheit (140° F) or six hundred degrees Celsius (600° C) using the test methods specified in 40 CFR 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 other flammable substances.

(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: flushable or non-flushable wipes, oil or grease, garbage with particles greater than one half inch (18-2/2") 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, any medical supplies such as sponges, bandages, catheters whether of natural or synthetic components, "sharps" such as hypodermic needles or syringes, scalpel blades, acupuncture needles, broken glass, slides and cover slips, or other items with acute ridged corners, edges or protuberances.

(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 Celsius (40° C) (One hundred four degrees Fahrenheit (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 and hazardous waste pharmaceuticals.

(i) Any trucked or hauled pollutants.

(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 non compliance with sludge use or disposal criteria, 40 CFR 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 TDEC 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.

(3) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 2 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.

(4) 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 2 of this ordinance. 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

| <u>Parameter</u> | <u>Maximum Concentration (mg/l)</u> |
|----------------------|---|
| Arsenic | |
| Benzene | |
| Cadmium | |
| Carbon Tetrachloride | |
| Chloroform | |
| Chromium (total) | |
| Copper | |
| Cyanide | |
| Ethybenzene | |
| Lead | |
| Mercury | |
| Methylene chloride | |
| Molybdenum | |

Naphthalene
 Nickel
 Phenol
 Selenium
 Silver
 Tetrachloroethylene
 Toluene
 Total Phthalate
 Trichlorethlene
 18-2,18-2,18-2-Trichloroethane
 18-2,2 Transdichloroethylene
 Zinc

(5) Removal of fat, oil, and grease. The city board encourages all users of the sanitary sewer system to take voluntary steps to reduce the amount of fats, oils, and grease that is poured, drained or washed down drains into the sanitary sewer system. Oils and grease will fill and clog the STEP tanks and cause equipment failure, loss of sewer service and added cost.

(a) Definitions. In the interpretation and application of this ordinance the following words and phrases shall have the indicated meanings:

(i) Fats, Oils, and Grease (FOG). Organic polar compounds derived from animal and/or plant sources. If lab testing is required to quantify the amount of FOG, the Hexane Extractable Material test is to be used or an equivalent 40 CFR 136 approved method.

(ii) Food Service Establishment (FSE). Any establishment, business or facility engaged in preparing, serving or making food available for consumption. Single family residences are not a FSE, however, multi-residential facilities may be considered a FSE at the discretion of the Superintendent. FSEs are classified as follows:

(A) Class 1: Deli-engaged in the sale of cold-cut and microwaved sandwiches/subs with no frying or grilling on site, ice cream shops and beverage bars as defined by North American Industrial Classification System (NAICS) 722515 or mobile food vendors as defined by NACIS 722330. Bed and breakfast establishments as defined by NACIS 72119.

(B) Class 2: Limited-service restaurants (a.k.a. fast food facilities) as defined by NACIS 722513 except fast food with a food line that is heavily fried and a history of FOG discharges that interfere with the sanitary sewer system, and catering as defined by NACIS 722320.

(C) Class 3: Full service restaurants as defined by NACIS 722110.

(D) Class 4: Buffet and cafeteria facilities as defined by NACIS 72212.

(E) Class 5: Institutions (schools, hospitals, prisons, etc.) as defined by NACIS 722310 but not to exclude self-run operations.

(iii) Grease, brown. Fats, oils, and grease that are discharged to the grease control equipment.

(iv) Grease, yellow. Fats, oils, and grease that have not been in contact with or contaminated from other sources such as water, wastewater, solid waste and can be readily recycled.

(v) Grease Control Equipment (GCE). A device for separating and retaining wastewater FOG prior to the wastewater exiting the FSE property and entering into the sanitary sewer system. GCE includes grease traps and grease interceptors or other devices approved by the Superintendent. (is this the proper person?)

(vi) Grease interceptor. An interceptor whose rated flow exceeds fifty (50) gallons per minute (g.p.m.) and is located outside the building.

(vii) Grease trap. An interceptor whose rated flow is fifty (50) g.p.m. or less and is typically located inside the building.

(viii) Grease recycle container. A container used for the storage of yellow grease for recycling.

(ix) 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 flow.

(x) Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the sanitary sewer collection operation, the treatment processes or operations, or the sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(xi) Tee (influent and effluent). A T-shaped pipe attached to the horizontal influent and effluent pipes of a grease interceptor and extending downward into the trap to depths specified by design which on the influent side forces influent flow into the center of the trap and prevents floating FOG from escaping the effluent pipe.

(xii) Black water. Wastewater containing human waste from sanitary fixtures such as toilets and urinals.

xiii. Gray water. Refers to all other wastewater other than black water.

(b) Discharge of FOG. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the wastewater facility. Prohibited discharges include, "Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between thirty-two or one hundred fifty degrees Fahrenheit (32 or 150° F) or zero to sixty-five degrees Celsius (0 to 65° C)."

(c) Interference with the sanitary sewer system operations. Any user who discharges animal and vegetable fat, oil, and grease in the volume or form which interferes with the operation of the sanitary sewer system may be subject to enforcement actions as specified in § 18-313 of this ordinance and may be billed for cleanup charges incurred by the city when that user's discharge causes operation and maintenance problems in the sanitary sewer system such as blockages, backups, overflows, interruption of service, excessive FOG accumulation in lift stations and pipes, and other FOG related problems that are tracked to that user's discharge.

(d) Control of FOG. (i) All existing and new FSEs shall effectively control the discharge of FOG into the sanitary sewer system. A Class 1 FSE may do this through the use of Restaurant Industry best management practices such as those published by the National Restaurant Association. See: [http://www.foodserviceresource.com/FORMS%20&%20PDF S/FOG_ToolKit.pdf](http://www.foodserviceresource.com/FORMS%20&%20PDF%20S/FOG_ToolKit.pdf). If best management practices fail to prevent sanitary sewer system interferences Class 1 FSEs shall install grease control equipment (GCE) as specified in (5), or by the superintendent.

(ii) All new Class 2-5 FSEs shall install grease control equipment in sizes specified in (5) or by the superintendent and properly maintain that equipment in such a way to prevent interference with the sanitary sewer system.

(iii) Existing FSEs that do not meet these minimum sizes may continue to use existing GCE and/or best management practices if the discharge from the FSE is not interfering with the sanitary sewer system and the superintendent gives written permission stating that that the current GCE and practices are preventing interference with the sanitary sewer system. Upon written notice from the superintendent that the existing GCE or BMPs are inadequate to protect the sanitary sewer system from interference, the FSE shall have sixty (60) days to install

additional GCE to prevent FOG interference with the sanitary sewer system.

(iv) All FSEs with GCE shall maintain records of cleaning and maintenance of that equipment. Records include at a minimum the date of cleaning or maintenance, company or person conducting the cleaning or maintenance, and the amount of grease and water removed from the equipment. A grease waste hauler completed manifest will meet this requirement.

(v) Yellow grease such as fryer oil, shall not be discharged into the GCE or into stormwater conveyances. The use of yellow grease recycling containers is encouraged.

(vi) Owners of commercial property will be held responsible for wastewater discharges from FSE leaseholders on their property.

(vii) All FSEs shall provide access to city utility personnel (after proper identification) for the purpose of inspection of GCE, kitchen equipment and practices, and any cleaning and drain remediation products which relate to the wastewater and FOG discharge.

(e) Grease Control Equipment (GCE). (i) Minimum acceptable size of GCE is as follows. Larger sizes may be required by the Superintendent.

(A) Class 1: 20 gpm/40 lbs grease trap.

(B) Class 2: 500 gallon grease interceptor.

(C) Class 3: 1,000 gallon grease interceptor.

(D) Class 4: 2,500 gallon grease interceptor.

(E) Class 5: 2,000 gallon grease interceptor.

(ii) Any FSE either new or existing that is found by the superintendent to be interfering with the sanitary sewer system may be asked to install GCE that is larger than the minimum size and take other steps to stop that interference.

(iii) Existing FSEs that do not meet these minimum sizes may continue to use existing GCE and/or best management practices if the discharge from the FSE is not interfering with the sanitary sewer system and the superintendent gives written permission stating that the current GCE and practices are preventing interference with the sanitary sewer system. Upon written notice from the superintendent that the existing GCE or BMP's are inadequate to protect the sanitary sewer system from interference, the FSE shall have sixty (60) days to install additional GCE to prevent FOG interference with the sanitary sewer system.

(iv) Additionally FSEs that discharge the water from dishwashing machines through a grease interceptor shall install

a GCE which is larger than the minimum to allow for cooling of the discharge and thereby prevent discharge of FOG into the sanitary sewer system.

(v) Grease traps. These small, under-the-counter units shall be installed according to drawings provided by the superintendent and shall include vented flow restrictor prior to the trap. Dishwashing machines shall not be installed onto these units. Failure to follow this requirement will render the trap ineffective and the FSE shall be instructed to install a large external grease interceptor.

(f) Installation of GCE. (i) Owners/users are responsible for installation of the GCE.

(ii) Grease traps shall be installed according to the requirements in (5).

(iii) Grease interceptors shall be substantially similar to sample drawings available from the superintendent.

(iv) Tanks must be water tight and protected from rainwater inflow and infiltration.

(v) Two access manholes with a minimum of twenty-four inches (24") diameter shall be provided, one (1) directly over the influent pipe and Tee and one (1) directly over the effluent pipe and Tee.

(vi) Influent and effluent pipes shall be four inches (4") or larger PVC Schedule 40 or stronger.

(vii) Influent and effluent pipes shall be equipped with Tee fittings properly positioned as follows. Influent flow shall be directed downward and the Tee shall terminate twenty-four inches (24") below the water surface. Effluent Tee shall block all surface grease and terminate twelve inches (12") above the bottom of the unit.

(viii) The tank shall be constructed to have two (2) compartments. Two thirds (2/3) of the volume shall be in the influent side and one third (1/3) on the effluent side. A solid baffle wall shall extend from the bottom to within six inches (6") of the top and shall be equipped with a six inches (6") elbow installed in the baffle wall with drawing flow from the influent side of the unit at a depth of twelve inches (12") from the bottom.

(ix) Manhole covers shall be of materials and strength to withstand expected surface loads, and secured to prevent accidental entry.

(x) Interceptors shall be located for effective cleaning and not blocked by structures or landscaping.

(xi) Interceptor sizes greater than two thousand five hundred (2,500) gallons shall be served by two tanks installed in series.

(g) Maintenance of GCE. (i) Owners/users are responsible for maintenance of the GCE.

(ii) Grease traps should be cleaned once every two weeks, or sometimes more often, if the combined depth of FOG and solids exceed fifty percent (50%) of the trap.

(iii) Grease Interceptors shall be pumped when the layer of FOG and settled solids combined reaches twenty-five percent (25%) of the tank depth.

(iv) When grease interceptors are pumped, the entire contents, FOG layer, settled solids and water shall be fully removed. No water may be returned to the tank.

(v) Interceptors shall be inspected for deterioration and damage by the waste grease hauler each time the unit is cleaned.

(vi) Deteriorated or damaged tanks shall be repaired or replaced within sixty (60) days of notice of such conditions.

(h) Additives. (i) Additives include but are not limited to products that contain solvents, emulsifiers, surfactants, caustics, acids, enzymes and bacteria. They may be inorganic or organic in origin.

(ii) The use of additives is prohibited with the following exceptions:

(A) Additives may be used to clean FSE drain lines but only in such quantities that will not cause FOG to be discharged from the GCE to the sanitary sewer or cause temporary breakdown of the FOG that will later re-congeal in the downstream sewer pipes.

(B) If a product used can be proven to contain one hundred percent (100%) live bacteria, with no other additives, a request for permission to use the product shall be made to the superintendent. The request must be submitted in writing with a full disclosure material safety data sheet and a certified statement from the manufacture.

(i) Implementation. This ordinance empowers the superintendent to adopt reasonable operating policies to facilitate the implementation of this ordinance. These policies may include but are not limited to: FSE inspections, GCE sizing and maintenance, FSE wastewater discharge testing and monitoring, approval or disapproval of GCE (Grease Waste Haulers) servicing vendors, permitting of FSE's, and other operating policies needed to protect the sanitary sewer system from interference from FOG.

(j) Fees. This ordinance empowers the city to establish fees (through a separate fee ordinance) to offset costs associated with the implementation of this ordinance. Possible fees include: pumping STEP tank fees (if FOG results in excessive pumping), inspection fees, permitting fees, surcharge fees for high strength discharges, cleanup fees associated with FOG cleanup within the sanitary sewer system, and other fees necessary for implementation of this ordinance.

(k) Permitting. The city may use FSE permits as a way of implementing this ordinance, and may further require the permitting or certification of GCE service and pumping vendors.

18-210. 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 2. Repeated or continuous violation of this ordinance 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 or workers 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, including if applicable legal costs, 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.

CHAPTER 3

INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

SECTION

- 18-301. Industrial pretreatment.
- 18-302. Discharge permits.
- 18-303. Industrial user additional requirements.
- 18-304. Reporting requirements.
- 18-305. Enforcement response plan.
- 18-306. Enforcement response guide table.
- 18-307. Fees and billing.
- 18-308. Validity.

18-301. Industrial pretreatment. In order to comply with Federal Industrial Pretreatment Rules 40 CFR 403 and Tennessee Pretreatment Rules 0400-40-14 and to fulfill the purpose and policy of this ordinance the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the General and Specific discharge regulations specified in § 18-309 of this ordinance.

(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 § 18-305.

(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 be in effect or take effect after the passage of this ordinance.

Table B - Local Limits

| <u>Pollutant</u> | Monthly Maximum Concentration (mg/l) | Average* | Daily Maximum Concentration (mg/l) |
|-------------------------------|---|----------|---|
| Arsenic | To be established if needed for a significant Industrial user | | |
| Benzene | | | |
| Cadmium | | | |
| Carbon Tetrachloride | | | |
| Chloroform | | | |
| Chromium (total) | | | |
| Copper | | | |
| Cyanide | | | |
| Ethybenzene | | | |
| Lead | | | |
| Mercury | | | |
| Methylene chloride | | | |
| Molybdenum | | | |
| Napthalene | | | |
| Nickel | | | |
| Phenol | | | |
| Selenium | | | |
| Silver | | | |
| Tetrachloroethylene | | | |
| Toluene | | | |
| Total Phthalate | | | |
| Trichlorethlene | | | |
| 18-2,18-2,18-2-Trichoroethane | | | |
| 18-2,2 Transdichloroethylene | | | |
| Zinc | | | |

*Based on twenty-four (24) hour flow proportional composite samples unless specified otherwise.

(5) Surcharge threshold and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge thresholds. Maximum concentrations may also be established for some users.

Table C - Surcharge Thresholds and Maximum Limits

| <u>Parameter</u> | <u>Surcharge Threshold</u> | <u>Maximum Concentration</u> |
|-------------------------------|--------------------------------|----------------------------------|
| Total Kjeldahl Nitrogen (TKN) | | |
| Oil and grease | | |
| MBAS | | |
| BOD | | |
| COD | | |
| Suspended solids | | |

(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.

(9) Combined wastestream formula. When wastewater subject to categorical Pretreatment Standards is mixed with wastewater not regulated by

the same standard, the permitting authority may impose an alternate limit using the combined wastestream formula.

18-302. 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 ordinance 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 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 18-310 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 paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(iv) 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.

(v) 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.

(vi) 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.

(vii) 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 users 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 prior written approval of the local administrative officer. 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 users.

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.

18-303. 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 CFR 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 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 fines, 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.

18-304. 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 § 18-305.

(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 0400-40-14.06(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 paragraph (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 paragraph (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 wastestream 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 CFR 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 representative sample to compile that data necessary to comply with the requirements of this paragraph.

(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 wastestream formula to evaluate compliance with the pretreatment standards

(G) Sampling and analysis shall be performed in accordance with 40 CFR 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 § 18-304(2) of this ordinance.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with section § 18-3204(4) of this ordinance and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-304(1)(d) of this ordinance:

(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, at 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 § 18-304(18-2)(b)(iv) and (v) of this ordinance. 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 ordinance.

(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 section § 18-301 of this chapter.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-302 of this chapter or modify an existing wastewater discharge permit under § 18-302 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 ordinance.

(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 paragraph (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 its 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 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 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 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 wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-304(5) of this ordinance. 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 §§ 18-304(1),(3), and(4) of this chapter.

(b) Dischargers are exempt from the requirements of paragraph (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 CFR 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 CFR 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 ordinance, a permit issued there under, 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 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 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 sections (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 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 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 90 day compliance reports required in subsections (2) 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 ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, 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 section 202. 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.

18-305. Enforcement response plan. Under the authority of Tennessee Code Annotated, § 69-3-18-223 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 Huntland 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 § 18-305(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, or workers 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. This emergency authority applies to either permitted, non-permitted, commercial or residential users.

(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, Under the authority of Tennessee Code Annotated, § 69-3-18-224:

(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 subdivision (a)(vi). The recorded 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 Campbell 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 § 18-305(2)(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, § 27-8-201, 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)(18-2)(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) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders. Under the authority of Tennessee Code Annotated, § 69-3-18-226.

(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. Under the authority of Tennessee Code Annotated, § 69-3-127.

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 18-302(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations of 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 non-compliance. (a) Insignificant non-compliance: For the purpose of this guide, insignificant non-compliance 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 0400-40-.08(6)(b)8.

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken for each parameter taken during a six-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 or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=18-2.4 for 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 § 18-305(2)(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 of 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 times in four hours.

Any significant non-compliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).¹

(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 paragraphs (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

¹Appendix A is available in the recorder's office.

period equals or exceeds 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 (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);

(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;

(g) Failure to accurately report noncompliance; or

(h) 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.

(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 times in four 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.

18-306. Enforcement response guide table. To be developed as part of a TDEC approved industrial pretreatment program.

18-307. 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) Fees to cover the cost of damage or interference caused by a users discharge or a users neglect;
 - (g) Industrial wastewater discharge permit fees;
 - (h) Fees for industrial discharge monitoring; and
 - (i) 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 § 18-302 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. 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 § 18-307 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. Violation are categorized in the Enforcement Response Guide Table (Appendix A). The local administrative officer may access a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

| | |
|------------|--------------------------|
| 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 |

18-308. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the city.

CHAPTER 4

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-401. Definitions.
- 18-402. Standards.
- 18-403. Construction, operation, and supervision.
- 18-404. Statement required.
- 18-405. Inspections required.
- 18-406. Right of entry for inspections.
- 18-407. Correction of existing violations.
- 18-408. Use of protective devices.
- 18-409. Unpotable water to be labeled.
- 18-410. Violations and penalty.

18-401. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(2) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(3) "Cross-connection." Any physical arrangement whereby the public water supply is connected, directly or indirectly, with any other water supply system, whether sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross-connections;

(4) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(5) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

¹Municipal code reference

Plumbing and related codes: title 12.

(6) "Public water supply." The waterworks system furnishing water to the city/town for general use and which supply is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

18-402. Standards. The municipal public water supply is to comply with *Tennessee Code Annotated*, §§ 68-221-701 to 68-221-719 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses.

18-403. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross-connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the general manager or his representative.

18-404. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the JE&WS a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises.

18-405. Inspections required. It shall be the duty of the JE&WS to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the JE&WS and as approved by the Tennessee Department of Environment and Conservation.

18-406. Right of entry for inspections. The general manager or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.

The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

18-407. Correction of existing violations. Any person who now has cross-connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the JE&WS.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the *Tennessee Code Annotated*, § 68-221-711, within a reasonable time and within the time limits set by the JE&WS shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the JE&WS shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross-connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately.

18-408. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed

(1) Impractical to provide an effective air-gap separation,
(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply,

(3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing,

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected, the general manager or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Environment and Conservation as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the JE&WS prior to installation and shall comply with the criteria set forth

by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the municipal public water supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the general manager or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the JE&WS shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. They shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the JE&WS.

The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the JE&WS.

18-409. Unpotable water to be labeled. In order that the potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background.

18-410. Violations and penalty. The requirements contained herein shall apply to all premises served by the city/town water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city/town to provide water services to any premises. Such action, being essential for the protection of the water

distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be subject to a penalty under the general penalty provision of this code. Each day a violation is allowed to occur shall be a separate offense.

CHAPTER 5

LOW PRESSURE SEWER SYSTEMS

SECTION

18-501. Availability.

18-502. Requirements.

18-503. Work performed by persons other than JE&WS.

18-504. Charges and fees.

18-505. Terms and conditions.

18-501. Availability. In areas where gravity sewers are impractical or economically unfeasible because of factors such as rock, high ground water table, other geological restrictions or user density, JE&WS may, in its discretion, authorize the use of a low pressure sewer system for such areas. Low pressure sewer system extensions shall only be authorized for such areas where:

(1) Their installation is economically feasible; and

(2) Future expansion to the extension is impractical because of geographical restrictions. Said systems shall not be authorized for locations serving only one (1) customer to which a gravity sewer is available as provided under "connections to public sewer" in chapter 3 "Wastewater."

The economic feasibility of extensions authorized pursuant to this chapter shall be equitably determined by JE&WS after consideration of the total capital cost, the anticipated revenues, the estimated expenses associated with the extension and its maintenance and such other economic factors as the general manager shall deem appropriate under the circumstances. Costs for extending such systems shall be paid by customers associated with such extensions and shall constitute a contribution in aid of construction.

JE&WS shall have the authority to extend its wastewater system in accordance with the requirements of this regulation when any such extension is determined to be in the best interest of JE&WS or to the benefit of the public health of the community. The authority to make wastewater extensions pursuant to this regulation is discretionary even though all requirements of this chapter have been met. Nothing contained herein shall be construed as requiring JE&WS to extend wastewater service or make low pressure sewer systems available to any property. All such extensions shall be made on a case by case basis and shall at all times be subject to the continuing authorization of, and regulation by, state and federal authorities. (Ord. #63-2008, Dec. 2008)

18-502. Requirements. Property owners desiring to obtain wastewater service from a low pressure sewer system shall apply to JE&WS for such service and shall provide such information as JE&WS deems appropriate to equitably determine the economic feasibility of providing such extension. In addition, any

applicant whose application is approved by JE&WS must comply with the following additional requirements:

(1) The approved applicant shall comply with JE&WS's rules and regulations, the terms and conditions, and policy guidelines with respect to the extension of low pressure sewer systems, which rules and regulations, terms and conditions and policy guidelines may be changed from time to time by action of JE&WS. The approved applicant shall also comply with all rules and regulations of the State of Tennessee that may be in effect from time to time and which apply to low pressure sewer systems, including but not limited to regulations requiring the maintenance of a dual warning system for inside and outside the building indicating the malfunction or non-function of the pump system serving such building.

(2) Prior to extending any such sewer system, JE&WS may require the property owner to execute an extension agreement which requires and/or provides for customer guarantees with respect to the extension, including, but not limited to, minimum volume or bill requirements, and such other forms of security and/or guarantees, as JE&WS determines to be necessary or appropriate to protect the interests of JE&WS and its ratepayers. The property owner shall also provide JE&WS with such rights-of-way and easements as may be necessary to assure JE&WS access to such sewer systems for inspection, maintenance, repair and replacement.

(3) Location of pumps, and effluent lines shall be subject to the approval of the JE&WS. Installation shall follow design criteria for the specified grinder pump system as provided by the superintendent. The service lines and appurtenances from the residential or commercial building to the grinder pump unit and from the grinder pump unit to the property line will be installed and owned by the property owner. The service line from the public sewer line (force main or gravity line) will be installed and owned by JE&WS to the property line of each property being served.

(4) Grinder pump equipment shall be purchased and installed at the developer's, homeowner's/property owner's, or business owner's expense according to the specification of the JE&WS and connection will be made to the JE&WS sewer only after inspection and approval of the JE&WS. The developer, homeowner or business shall pay JE&WS for the purchase and installation expense at the time other service connection fees and charges are paid for sewer service.

(5) Homeowners/property owners or developers shall provide the JE&WS with ownership and an easement. Access by the JE&WS to the grinder pump system must be guaranteed to operate, maintain, repair, and restore service. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction. The property owner will sign an indemnification agreement between JE&WS and the property owner releasing JE&WS from any liability for the installation, operation and maintenance of the grinder pump unit.

(6) The customer shall provide a gravity connection to the low pressure sewer system in accordance with chapter 3, wastewater, "connection to public sewers," § 18-303(2). The customer shall provide all electric service necessitated by the connection to the low pressure sewer system of the type and at the location(s) specified by JE&WS.

(7) All mains and other wastewater facilities associated with the low pressure sewer system shall be constructed either by JE&WS or by persons authorized under the heading "work performed by persons other than JE&WS," of this regulation. For work performed by JE&WS, the approved applicant shall pay to JE&WS, in advance of construction, the estimated cost of the low pressure sewer system required under subsection (3) above, as is determined by JE&WS.

(8) Once approved by JE&WS, no additional customers shall be added to a low pressure system unless approved by JE&WS.

(9) The customer shall take all actions necessary to preserve and protect JE&WS's sewer system. In the event of loss or damage to any part of JE&WS's sewer system or any other property belonging to JE&WS as a result of neglect or misuse by the customer or any other occupant or user of the property being served, the cost of all necessary repairs to JE&WS's system and/or property shall be paid by the customer. (Ord. #63-2008, Dec. 2008)

18-503. Work performed by persons other than JE&WS.

Notwithstanding anything contained in JE&WS's Rules and Regulations to the contrary, where provision is made for the construction of a low pressure sewer system by JE&WS at the expense of the customer or any person other than JE&WS, the general manager may allow such construction work to be performed by a contractor or other person acceptable to JE&WS. Such construction work shall also comply with the following requirements:

(1) The size, type and installation of wastewater mains or other facilities associated with a low pressure sewer system extension shall comply with JE&WS's standard specifications for sewer construction and must be approved by JE&WS prior to the construction of said facilities.

(2) All construction work shall at all times be subject to inspection by JE&WS to assure that the work conforms to the specifications of JE&WS.

(3) No approval or inspection by JE&WS pursuant to this section shall relieve the customer or his contractor of any liability to JE&WS or third parties for the work performed by the customer or his contractor.

JE&WS may reduce any required contribution in aid of construction up to the total required contribution for work performed in accordance with the previous subsection.

Upon the completion of the low pressure sewer system and its approval and acceptance by JE&WS, such facilities shall become the property of JE&WS, and the persons paying the cost of constructing such facility shall execute any written instruments requested by JE&WS to provide evidence of JE&WS's title

to such facilities, including any necessary rights-of-way and easements for access to the same for inspection, maintenance, repair and replacement. In consideration of such facilities being transferred to JE&WS, JE&WS shall incorporate such facilities as an integral part of JE&WS's wastewater system and shall provide wastewater services therefrom in accordance with the rules, regulations and rate schedules of JE&WS as may be in effect from time to time. (Ord. #63-2008, Dec. 2008)

18-504. Charges and fees. In addition to the ordinary tap fee and normal usage rates for wastewater service, customers who receive wastewater service through a low pressure sewer system shall also be subject to a monthly system maintenance fee, which shall be assessed in accordance with the cost associated with the customers receiving service from low pressure sewer systems as is determined by JE&WS. Said fees shall be assessed by JE&WS under JE&WS's rate and fee schedules,¹ which may be amended from time to time. JE&WS may assess to customers and customers shall pay the cost of repairs and replacements provided for in this regulation. All such assessments shall be due and payable immediately. (Ord. #63-2008, Dec. 2008)

18-505. Terms and conditions. (1) Equipment furnished and maintained by applicant. The applicant shall provide a two hundred twenty (220) volt line from the main breaker box to the outside of the structure where the pump control panel is to be located, along with a weatherproof disconnect. The electrical wiring, disconnect, and other required electrical equipment connecting the residence or place of business of the applicant to the pump control panel shall be maintained by the applicant at all times in conformity with the requirements of the JE&WS and the appropriate electrical codes. Further, the pipeline from the place of occupancy to the connection with the grinder pump basin shall be maintained by the applicant at the applicant's expense.

(2) Repair of equipment. The JE&WS will maintain the pump control panel, the pump, the service line to the main sewer, and the main sewer lines so as to accommodate the applicant for the use of sewer service. In the event of a failure of the grinder pump, control panel, or force main, the JE&WS will be responsible for the repair or replacement of the failed part. If the failure is determined to have been the result of misuse of the sewer system by the applicant, the applicant will be charged for the repair or replacement of the damaged part.

(3) Owner's consent. In case the applicant is not the owner of the premises which are to be served by the sewerage system, the applicant hereby

¹Schedules of rates and fees are available in the Jellico Water Systems Customer Service Department.

agrees to obtain, from the owner as herein provided, the necessary consent and easement for the installation and maintenance on said premises of all wiring and other electrical equipment as may be necessary or convenient for the supplying of electricity to the pumps as well as maintaining the pipeline from the main sewer line connecting the premises.

(4) Access to premises. Properly authorized agents of the JE&WS shall, at all reasonable hours, have access to the premises for the purpose of inspecting the applicant's installation and for examining, installing, repairing, or removing JE&WS's pump or other property and for such purpose the applicant hereby authorizes and requests his landlord, if any, to permit such access to the premises. This access shall be by means of an easement signed by the owner.

(5) Interruption of service. The JE&WS will, at all times, exercise care and diligence in operating the sewer lines so as to furnish the applicant, as nearly as practicable, a continuous availability of lines for the disposal of sewage and waste. If the JE&WS shall be prevented from providing the service described herein as contracted for because of injury to or breakdown of its sewage collection lines or for necessary repairs thereto, because of acts of God or the public enemy, strikes, labor troubles, fire, riot, flood, civil disturbances, war or the consequences thereof, acts of public authority, litigation or any act or thing which is beyond its reasonable control, such interruption shall not constitute a breach of this agreement in which a cause of action for damages against the JE&WS accrues to the applicant, provided that the JE&WS shall proceed with diligence to restore service as soon as practicable after receiving notice of interruption or failure. The applicant shall be responsible for notifying the JE&WS in the event the grinder pump system's warning light or alarm is activated. Failure to notify the JE&WS that the warning light or alarm has been activated will relieve the JE&WS from any damages caused by the failure of the grinder pump system before the JE&WS was notified.

(6) Release of JE&WS from liability. The JE&WS shall not be liable for damages resulting to the applicant or to third parties from the use of the sewerage system or any of the JE&WS's equipment utilized in the providing of sewer service unless due to willful fault or negligence on the part of the JE&WS.

(7) Right of cut-off. The JE&WS has the right to discontinue all of its sewer services to the applicant on due notice and to remove the pump and any other property from the applicant's premises in case the applicant fails to comply with or fails to perform any of the conditions or obligations hereof.

(8) Damages. In the event the applicant discharges a foreign material or substance (including but not limited to plastic items, excessive amounts of grease or oil, motor oil, kitty litter, sand, paint, personal hygiene products, clothing or rags, metal or glass objects, pet hair, lint, home vacuum water, toxic household substances, excessive use of garbage grinders or disposals, etc.) into the sewerage system which impairs or damages the pump unit, the JE&WS

may, at its own discretion, assess the applicant for time and/or materials required to repair the pump unit.

(9) Deposit. The JE&WS shall have the right at any time to require the applicant to make a reasonable deposit in advance to secure the prompt payment of bills.

(10) Assignment. The benefits and obligations of this agreement shall inure to and be binding upon the applicant and the JE&WS's successors and assigns provided, however, that no assignment hereof shall be made by the applicant without first obtaining the JE&WS's written consent.

(11) Agreement subject to state and federal regulatory acts and regulations. The applicant understands that this agreement and the services to be provided hereunder are subject to any and all state and federal laws and regulations, including but not limited to regulations instituted by the Environmental Protection Agency of the United States Government and the Department of Environment and Conservation of the State of Tennessee to the extent that said laws and regulations are applicable. If in any event it is determined that any of the provisions contained herein are inconsistent with said laws or regulations, these laws and regulations shall take precedence over the provisions herein which are inconsistent, but the remainder of this agreement shall remain in full effect unless so determined to be invalid at a subsequent time. (Ord. #63-2008, Dec. 2008)

CHAPTER 6**MISCELLANEOUS CHARGES AND FEE SCHEDULES****SECTION**

18-601. Miscellaneous charges and fee schedules.

18-601. Miscellaneous charges and fee schedules.¹ Charges and fee schedules are amended from time to time for the Jellico Electric and Water System.

¹Schedules of charges and fees for JE&WS, as amended from time to time, are available in the Jellico Electric and Water System Customer Service Department.

CHAPTER 7**SERVICE APPLICATIONS****SECTION**

18-701. Applications for services.

18-701. Applications for services. Applications and terms and conditions for utility service (individual), utility service (business--sole proprietor/partnership), utility service (business rental property--owner/manager), utility service (business--corporation/LLC) and grinder pump service are available in the Jellico Water Systems Customer Service Department.

CHAPTER 8

EMERGENCY DROUGHT AND/OR WATER SHORTAGE PLAN

SECTION

- 18-801. JE&WS overview.
- 18-802. Goals.
- 18-803. Emergency operations procedure for drought management.
- 18-804. Authorization and guidelines for the declaration of a water shortage emergency.
- 18-805. Water shortage emergency status 1.
- 18-806. Water shortage emergency status 2.
- 18-807. Non-essential use category 1.
- 18-808. Non-essential use category 2.
- 18-809. JE&WS board of directors action.
- 18-810. Public notice.
- 18-811. Customer non-compliance.

18-801. JE&WS overview. Jellico Electric and Water System's water treatment plant was built in 1998 to provide potable water to the residences and businesses of Jellico and portions of Campbell County. Our service territory extends East of Jellico to the High Cliff area and west and southwest to Newcomb and Elk Valley to the base of the hill at Pioneer. We serve one thousand seven hundred forty-six (1,746) residential customers and sixty-four (64) commercial customers. We also have one (1) wholesale customer, Whitley County Water District.

The water treatment plant is designed to treat one thousand fifty (1,050) gallons per minute which is one and one half (1.5) million gallons per day. The current average daily production is seven hundred fifty-six thousand six hundred (756,600) gallons with the peak production day last year being 1.3 million gallons per day. The plant uses coagulation, up-flow clarification, filtration and disinfection to treat the raw water. JE&WS also adds fluoride to the water for dental prevention.

JE&WS's raw water source is Creekmore-Housley Lake which is a twelve (12) acre man made lake developed on an old coal strip pit. This water supply has proven to not be sufficient to meet our customer's water demands during drought condition. During such drought conditions a limited amount of additional water supply is available through an interconnection between Creekmore-Housley Lake and Indian Mt. State Park Lake. However, this additional water supply is still not sufficient to meet water demands during drought conditions.

Efforts are underway to increase our raw water supply by developing some ground water wells. Three (3) test wells have been drilled and all three (3) wells are capable of providing at least five hundred (500) gallons per minute.

Two (2) of the wells are being developed and the water will be pumped to the water treatment plant for treatment. These two (2) wells will be in production by the spring of 2011 and will replace Creekmore-Housley Lake as the primary water supply. Connections will be maintained to the Creekmore-Housley Lake as back-up water supply to the wells. The third test well will be capped and will not be developed until water demands increase.

In addition to the development of the wells, JE&WS is working with Campbell County Mayor on plans to interconnect the JE&WS water distribution system with the Caryville-Jacksboro Utility Commission's water distribution system. The county mayor is pursuing the funding for this project. No time frame has been established for the completion of this project.

In addition to the above referenced projects, following is JE&WS's plan for managing our water supply and customer usage during periods of drought and/or water shortage emergencies. (Ord. #18-2010, Jan. 2011)

18-802. Goals. (1) No water furnished by JE&WS is wasted during water shortage emergencies;

(2) Equitable distribution of available water supply;

(3) Provide a basis for management decisions; and

(4) Advance knowledge of actions that will be taken during times of water shortage. (Ord. #18-2010, Jan. 2011)

18-803. Emergency operations procedure for drought management. Below is a list of basic steps or actions to be followed by JE&WS to monitor the system's potential for drought related water supply shortages and negate or minimize the adverse effects of the shortages:

(1) Assess and monitor the system's water supply/use relationship on a continuing basis including such factors as precipitation, temperature, reservoir and underground water levels, daily and peak water use, etc.

(2) Identify the conditions such as precipitation, reservoir and groundwater levels, temperature, etc., which would signify the existence of drought-like conditions and potential for drought-related water supply shortages in the area served by the system.

(3) Analyze the system's infrastructure condition and determine its adequacy to meet existing and near-term water demands in light of existing and possible water supply/use conditions. This should be done from the standpoint of both water quantity and quality.

(4) Establish the appropriate mechanisms (public information/education, enforcement powers, ordinances, etc.) to:

(a) Increase the public's awareness of JE&WS's water supply situation and the potential for drought; and

(b) Facilitate implementation of the needed actions when supply shortages do occur, in a timely manner, with the public's full cooperation and support.

(5) Identify and analyze alternative sources of supply and select one (1) or more supply alternatives which could most readily be utilized by the system during a drought period. To the extent possible, the system should do everything it can, in advance of any shortages, to facilitate the utilization of these alternative sources of supply as quickly and efficiently as possible.

(6) Implement, when appropriate, the actions specified in the JE&WS Emergency Drought Plan and/or Water Shortage Plan to reduce water use. (Ord. #18-2011, Jan. 2010, Jan. 2011)

18-804. Authorization and guidelines for the declaration of a water shortage emergency. No water furnished by the JE&WS shall be wasted during water shortage emergency periods. Waste of water includes, but is not necessarily limited to the following:

- (1) Failure to repair a controllable leak of water; and
- (2) Failure to put to reasonable beneficial use any water withdrawn from the JE&WS water distribution system.

The general manager or his designee is hereby authorized to declare water shortage emergency to exist in accordance with the standards set out in the emergency drought and/or water shortage plan. The declarer must immediately attempt to contact all the JE&WS board members and the City of Jellico Mayor to inform them of the emergency action. An end to a water shortage emergency must be declared by the JE&WS board.

In declaring a water shortage emergency, such emergency shall be designated status 1 or status 2 in accordance with conditions as determined by the general manager. (Ord. #18-2010, Jan. 2011)

18-805. Water shortage emergency status 1. A water shortage emergency status 1 exist when the water level in a major distribution system reservoir cannot be brought above the two-thirds (2/3) full mark within a forty-eight (48) hour period or the estimated available water supply is less than one hundred twenty (120) days. When the water supply reaches water shortage emergency status 1, the general manager or his designee may declare any or all of the uses of water identified as nonessential use Category 1 provided for in this plan as being prohibited and said prohibition shall remain in full force and effect until modified by the JE&WS board of directors. The list of the non-essential uses may be increased or decreased pending the next meeting of the JE&WS board, based on the recommendation of the general manager. (Ord. #18-2010, Jan. 2011)

18-806. Water shortage emergency status 2. A water shortage emergency 2 exists when the water level in a major distribution system reservoir cannot be brought above the one quarter (1/4) full mark within a forty-eight (48) hour period or the estimated available water supply is less than sixty (60) days. If water shortage emergency status 2 is reached, the general

manager or his designee may declare any or all of the non-essential uses in Category 2, in addition to the non-essential uses in Category 1 and the same shall remain in full force and effect until modified by the JE&WS board of directors. The list of the non-essential uses may be increased or decreased pending the next meeting of the JE&WS board, based on the recommendation of the general manager. (Ord. #18-2010, Jan. 2011)

18-807. Non-essential use category 1. The following uses are declared to be non-essential uses, Category 1:

(1) Any non-residential use in excess of seventy percent (70%) of the amount used during the corresponding billing period for the previous year.

(2) Watering. Water use for sprinkling, watering, or irrigating gardens, lawns, flowers, parks, golf courses, playing fields and other recreational areas.

(3) Ornamental. Water use for fountains, reflecting pools, and artificial water falls.

(4) Swimming pools. Filling or refilling a swimming pool.

(5) Home washing. Water use for the washing of privately owned cars, trucks, trailers, travel homes, trailer houses, houses, or any other type of equipment.

(6) Cleaning of outdoor surfaces. Washing of sidewalks, driveways, porches, parking areas, tennis or basketball courts, patios, and other outdoor exterior paved area, except by JE&WS for the public safety.

(7) Commercial motor vehicle washes. Commercial motor vehicle washing will be restricted both by days and hours of operation.

(8) Dust control and compaction. Use of water for the controlling of dust and/or compaction of soil during construction. (Ord. #18-2010, Jan. 2011)

18-808. Non-essential use category 2. The following uses are declared to be non-essential uses, Category 2, in addition to those listed for Category 2:

(1) Watering. Water use for sprinkling, watering, or irrigating shrubbery, trees, grass, ground covers, vines, vegetables and other plants, except by commercial nurseries, in which case item (3) below will apply.

(2) Restaurant service. Drinking water will not be served with meals unless specifically requested by customer.

(3) Any non-residential use in excess of fifty percent (50%) of the amount used during the corresponding billing period for the previous year. If the customer was not operating the previous year, an estimated amount shall be computed by JE&WS from its records. The general manager or his designee may increase the percentage for any connect use or customer if it is determined that such increase is necessary to protect the public health, safety, and welfare or to spread equitably among the water users of JE&WS the burden imposed by the shortage in JE&WS's water supply. (Ord. #18-2010, Jan. 2011)

18-809. JE&WS board of directors action. The board of directors may declare a water shortage emergency irrespective of whether the water supply has reached water shortage emergency Status 1 or 2, and designate prohibited usages.

Only the board of directors may terminate or end a water shortage emergency declared by the board of directors.

Any water shortage emergency described by the board of directors shall continue until the next meeting of the board of directors, if the board does not take action to terminate the water shortage emergency, the same shall continue in full force and effect. The board of directors may terminate or modify any limitations of non-essential uses of water. (Ord. #18-2010, Jan. 2011)

18-810. Public notice. Upon the declaration of the existence of a water shortage emergency by the general manager or his designee, he/she shall notify the local media and furnish detailed information concerning the existence of the water shortage emergency and all prohibited uses. In addition, a newspaper ad shall be published once a week in any weekly local newspaper, informing the public of the water shortage emergency and any prohibition concerning the non-essential uses. Every practical effort shall be made to keep the water using public informed of the conditions during any declared water shortage emergency. (Ord. #18-2010, Jan. 2011)

18-811. Customer non-compliance. Any failure of a customer to comply with the requirements of a declared water shortage emergency may be reported to any official/employee of JE&WS and shall be immediately investigated by the general manager or his designated agent. If noncompliance is found to exist, he shall request immediate compliance by the customer. Should the customer fail or refuse to immediately comply with the request, the general manager shall immediately discontinue water service to the customer in question, in addition to any other remedies that may be prescribed by City of Jellico ordinance(s).

Any customer whose service is disconnected because of failure to comply with the requirements of a declared water shortage emergency shall have the right, after the first such disconnection, to have reinstated upon payment to JE&WS of its customary reconnection charge and upon execution of a written statement that he will comply with the requirements of the declared emergency. If service is disconnected because of a subsequent failure to comply, such customer shall have the right to reinstatement of service only after approval of the board of directors and subject to such terms and conditions as the board shall impose, in addition to any other remedies that may be prescribed by City of Jellico ordinance(s).

The decision of the general manager may be appealed for a hearing to the board of directors. The disconnection shall remain in effect until the appeal is heard. A hearing shall be conducted within seventy-two (72) hours of the time

the request for hearing is made by the customer. In the event a hearing is not conducted within seventy-two (72) hours service shall be reinstated until the hearing is conducted. All requests for a hearing shall be made to the general manager. (Ord. #18-2010, Jan. 2011)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. GAS.
2. ELECTRIC SERVICE.

CHAPTER 1

GAS¹

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.² (1968 Code, § 13-401)

¹Municipal code reference
Fuel gas code: title 12.

²The agreements are of record in the office of the city recorder.

CHAPTER 2**ELECTRIC SERVICE****SECTION**

19-201. To be furnished under franchise.

19-201. To be furnished under franchise. Electric 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.¹ (1968 Code, § 13-401)

¹The agreements are of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

1. CIVIC DEVELOPMENT COMMITTEE.
2. CIVIL EMERGENCIES.
3. EMERGENCY MANAGEMENT PROCEDURES.

CHAPTER 1

CIVIC DEVELOPMENT COMMITTEE

SECTION

20-101. Civic development committee.

20-101. Civic development committee. The civic development committee shall originate and/or review proposals, plans, or programs concerning matters of civic development, and shall make investigations and submit reports and/or recommendations to the board of mayor and aldermen on such matters. (1968 Code, § 12-102)

CHAPTER 2

CIVIL EMERGENCIES

SECTION

- 20-201. "Civil "emergency" and "curfew" defined.
- 20-202. Proclamation of civil emergency.
- 20-203. Curfew authorized.
- 20-204. Authority to issue other orders.
- 20-205. Exceptions to curfew.
- 20-206. Violation of orders.

20-201. "Civil "emergency" and "curfew" defined. (1) A "civil emergency" is defined to be:

(a) A riot or unlawful assembly characterized by the use of actual force or violence or a threat to use force if accompanied by the immediate power to execute by three or more persons acting together without authority of law.

(b) Any natural disaster or man-made calamity including but not limited to flood, conflagration, cyclones tornado, earthquake, or explosion within the geographic limits of a municipality resulting in the death or injury of persons, or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

(c) The destruction of property, or the death or injury of persons brought by the deliberate acts of one or more persons acting either alone or in concert with others when such acts are a threat to the peace of the general public or any segment thereof.

(2) "Curfew" is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the municipality except persons officially designated to duty with reference to said civil emergency or those lawfully on the streets as defined hereinafter. (1968 Code, § 10-240)

20-202. Proclamation of civil emergency. When, in the judgment of the mayor a civil emergency as defined herein is determined to exist, he shall forthwith proclaim in writing the existence of same, a copy of which proclamation will be filed with the clerk of the municipality or if there be none, with the recorder. (1968 Code, § 10-240)

20-203. Curfew authorized. After proclamation of a civil emergency the mayor, he may order a general curfew applicable to such geographical areas of the municipality or to the municipality as a whole, as he deems advisable, and applicable during which hours of the day or night as he deems necessary in the interest of the public safety and welfare. Said proclamation and general curfew shall have the force and effect of law and shall continue in effect until rescinded in writing by the mayor but not to exceed fifteen (15) days. (1968 Code, § 10-240)

20-204. Authority to issue other orders. After proclamation of a civil emergency the

mayor at his discretion, in the interest of public safety and welfare:

- (1) Order the closing of all retail liquor stores.
- (2) Order the closing of all establishments wherein beer or alcoholic beverages are served.
- (3) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor and/or beer is permitted.
- (4) Order the discontinuance of the sale of beer.
- (5) Order the discontinuance of selling, distribution, or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.
- (6) Order the closing of gasoline stations, and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products.
- (7) Order the discontinuance of selling, distributing, dispensing or giving away any firearms or ammunition of any character whatsoever.
- (8) Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms and/or ammunition.
- (9) Issue such other orders as are necessary for the protection of life and property. (1968 Code, § 10-240)

20-205. Exceptions to curfew. Any curfew as defined hereby shall not apply to persons lawfully on the streets and public places during a civil emergency who have obtained permission of the local chief of police or other law enforcement officer then in charge of municipal law enforcement which permission shall be granted on good cause shown. This curfew also shall not apply to medical personnel in the performance of their duties. (1968 Code, § 10-240)

20-206. Violation of orders. Any person violating the provisions of or ere issued by the mayor pursuant to the authorization of Public acts 1968, Chapter 485 and this chapter during a proclaimed civil emergency shall be guilty of a misdemeanor and may be punished by a fine not exceeding fifty dollars (\$50.00). (1968 Code, § 10-240)

CHAPTER 3

EMERGENCY MANAGEMENT PROCEDURES

SECTION

- 20-301. Jellico Emergency Management Agency created.
- 20-302. Purpose.
- 20-303. Director of emergency management.
- 20-304. Duties.
- 20-305. Declaring disaster or emergency.
- 20-306. Emergency management plan.
- 20-307. Emergency operations center.
- 20-308. Location of emergency operations center.
- 20-309. City of Jellico employees made available for assignment.
- 20-310. Work shifts during emergencies.
- 20-311. Department activation during emergency.
- 20-312. Appointment of incident commander and field coordinators.
- 20-313. Notification of disaster or emergency.
- 20-314. Operational procedures.
- 20-315. Requesting mutual aid from other cities.
- 20-316. Incident response under direction of emergency management director.
- 20-317. Incidents occurring outside limits of City of Jellico.
- 20-318. Director of civil defense.
- 20-319. Definitions.

20-301. Jellico Emergency Management Agency created. There is hereby created a department to be known as the Jellico Emergency Management Agency for the City of Jellico, Tennessee. (Ord. #8-1993, Nov. 1993)

20-302. Purpose. The Jellico Emergency Management Agency shall be responsible for the safe and orderly management of any disaster, hazardous materials incident, ruinous event, and/or any emergency incident or event that requires a response of more than the normal available resources. (Ord. #8-1993, Nov. 1993)

20-303. Director of emergency management. There is hereby established a Emergency Management Director (EMD) who shall be appointed by the mayor and approved by the board of mayor and aldermen, as is necessary from time to time. Immediately upon passage of this chapter, the Chief of the Jellico Fire Department shall assume the duties of the emergency management director (as previously assigned by the board of mayor and aldermen) and shall continue until such time as he resigns or no longer acts in the capacity as fire chief and emergency management director. (Ord. #8-1993, Nov. 1993)

20-304. Duties. It shall be the duty of the Emergency Management Agency (EMA), in the event of a disaster, or other incident defined in § 20-302, to provide for the coordination and

organization, aid, and assistance of all responding personnel, groups, and/or organizations. (Ord. #8-1993, Nov. 1993)

20-305. Declaring disaster or emergency. In an emergency, where an incident or event has occurred and there is a reasonable possibility that the situation may lead to the loss of life or extreme loss of property, the emergency management director may declare a disaster or emergency. He shall then notify the mayor and members of the board of aldermen who shall convene as soon as possible and confirm the action or declare the event to be over.

When an event or incident of such a nature that the mayor and board of aldermen may be contacted first, then a disaster or emergency may be declared by: The board of mayor and aldermen if in session, and if not in session, then the mayor may declare a disaster or emergency. In the absence of the mayor or if he is unable to serve, the vice-mayor may declare a disaster or emergency. If both the mayor and vice-mayor are absent or unable to serve, then a disaster or emergency may be declared by a majority of the members of the board of aldermen who are available and able to serve. In the event the board of mayor and aldermen cannot be located, a majority of the members of the fire and police committee may declare a disaster or an emergency situation.

In declaring a disaster or an emergency situation, the recommendations of the fire chief and the chief of police shall be taken into consideration. (Ord. #8-1993, Nov. 1993)

20-306. Emergency management plan. It shall be the duty of the emergency management director to develop an emergency management plan for the City of Jellico, and to implement such plan. The director shall develop standard operating procedures or guidelines to implement the plan and shall provide copies of both to the board of mayor and aldermen. The director shall update and keep the plans and guidelines current and provide copies to the board of mayor and aldermen as available. (Ord. #8-1993, Nov. 1993)

20-307. Emergency operations center. When a disaster or emergency situation is declared, the emergency management director shall take charge and establish an Emergency Operations Center (EOC) and any field operations centers as needed. (Ord. #8-1993, Nov. 1993)

20-308. Location of emergency operations center. When possible, the emergency operations center shall be located in the Jellico Municipal Building, and if not possible, then in a predetermined location declared suitable by the director. (Ord. #8-1993, Nov. 1993)

20-309. City of Jellico employees made available for assignment. In the event of a disaster or other emergency as defined in § 20-302, having been so declared, all employees of the City of Jellico and the Jellico Electric and Water Systems, and/or any other departments or subdivisions of the City of Jellico shall be made available for assignment by the Director of the Jellico Emergency Management Agency.

The emergency management agency may enter into an agreement with the Jellico Electric and Water Systems if deemed necessary or desirable to be approved by the board of mayor and aldermen. (Ord. #8-1993, Nov. 1993)

20-310. Work shifts during emergencies. During a disaster or other emergency, employees may be required to work up to sixteen (16) hour shifts and will be given eight (8) hours off between shifts. (Ord. #8-1993, Nov. 1993)

20-311. Department activation during emergency. During a disaster or other emergency has been declared, the emergency management director shall be authorized to activate any all departments and employees outlined in § 20-309. (Ord. #8-1993, Nov. 1993)

20-312. Appointment of incident commander and field coordinators. The emergency management director shall appoint an incident commander and field coordinators as necessary. (Ord. #8-1993, Nov. 1993)

20-313. Notification of disaster or emergency. When a disaster or other emergency has been declared, the emergency management director shall notify the Campbell County Emergency Coordinator, the Whitley County (Kentucky) Emergency Coordinator, the Tennessee Emergency Management Agency, the Federal Emergency Management Agency or any other agency or organization deemed necessary by the director. (Ord. #8-1993, Nov. 1993)

20-314. Operational procedures. Disaster and emergency operations shall follow standard operational procedures set up by the director when possible and the director may adapt other standard procedures or follow standards deemed appropriate for the incident as necessary. Procedures may be changed or adapted to the incident without notice when during the course of an incident it is deemed necessary by the director without prior notice. (Ord. #8-1993, Nov. 1993)

20-315. Requesting mutual aid from other cities. The emergency management director shall be authorized to request mutual aid from other cities, groups, organizations, or agencies as deemed necessary. (Ord. #8-1993, Nov. 1993)

20-316. Incident response under direction of emergency management director. Any and all agencies, groups, organizations, persons or departments responding to an incident in the City of Jellico shall come under the direction of the Jellico Emergency Management Director when a disaster or emergency has been declared. (Ord. #8-1993, Nov. 1993)

20-317. Incidents occurring outside limits of City of Jellico. Whenever an incident occurs outside the corporate limits of the City of Jellico but is in such proximity to the City of Jellico that it may endanger the life or property of citizens of Jellico or there is danger of the incident spreading into the City of Jellico by means of water or air pollution, the director may request a disaster or emergency be declared and implement the emergency management procedures of this chapter. (Ord. #8-1993, Nov. 1993)

20-318. Director of civil defense. For the purposes of this chapter and emergency management the emergency management director shall be deemed to be the director of civil defense and shall include such procedures as may be necessary in the emergency management

plan. (Ord. #8-1993, Nov. 1993)

20-319. Definitions. Whenever used in this chapter, the word "director" shall be deemed to mean the Director of the Jellico Emergency Management Agency. The words or phrase "emergency management agency" shall mean the Jellico Emergency Management Agency unless specifically referring to some other emergency management agency. The words or phrase "board of mayor and aldermen" may be used interchangeably with the words or phrase "Jellico City Council." The words or phrase "emergency management plan" and words or phrase "standard operation procedures" shall be deemed to mean the emergency management plan and operation procedures developed and adopted for the City of Jellico unless specifically referring to some other plan or procedures. (Ord. #8-1993, Nov. 1993)

ORIGINAL

ORDINANCE NO. 10-21-2021

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF JELICO TENNESSEE.

WHEREAS some of the ordinances of the City of Jellico are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the City of Jellico, 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 "Jellico Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF JELICO, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Jellico Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed,

direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."¹

Each day any violation of the municipal code continues shall constitute a separate civil offense.

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

ORIGINAL

ORD-4

Passed 1st reading, 10-21-2021, 2021

Passed 2nd reading, 12-16-2021, 2021

Public Hearing 12-15-2021

Dwight E. Slom
Mayor

Maisha Bruce
Recorder