

**THE
LAKELAND
MUNICIPAL
CODE**

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

May 2002

*Change 8
December 6, 2018*

CITY OF LAKELAND, TENNESSEE

MAYOR

Mike Cunningham

VICE MAYOR

Josh Roman

COMMISSIONERS

Michele Dial
Richard Gonzalez
Wesley Wright

MANAGER

Shane Horn

RECORDER

Debra Murrell

Preface

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 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 Sandy Selvage, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Tracy G. Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini
Codification Specialist

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

1. General power to enact ordinances: (6-19-101)
2. All ordinances shall begin, "Be it ordained by the City of Lakeland as follows:" (6-20-214)
3. Ordinance procedure
 - (a) Every ordinance shall be read two (2) different days in open session before its adoption, and not less than one (1) week shall elapse between first and second readings, and any ordinance not so read shall be null and void. Any city incorporated under chapters 18-23 of this title may establish by ordinance a procedure to read only the caption of an ordinance, instead of the entire ordinance, on both readings. Copies of such ordinances shall be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading.
 - (b) An ordinance shall not take effect until fifteen (15) days after the first passage thereof, except in case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage, provided it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency.
 - (c) The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.
 - (d) No ordinance making a grant, renewal, or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be passed as an emergency ordinance. No ordinance shall be amended except by a new ordinance.
4. Each ordinance of a penal nature, or the caption of each ordinance of a penal nature, shall be published after its final passage in a newspaper of general circulation in the city. (6-20-218)

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF COMMISSIONERS.
2. MAYOR.
3. RECORDER.
4. CITY MANAGER.
5. CITY DEPARTMENTS.
6. CODE OF ETHICS.

¹Charter reference

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

Municipal code references

Utilities: titles 18 and 19.

Water and sewers: title 18.

Zoning: title 14.

CHAPTER 1

BOARD OF COMMISSIONERS¹

SECTION

- 1-101. Time and place of regular meetings, work sessions, and town hall meetings
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Compensation.
- 1-105. Approval for recording, broadcasting, or telecasting meetings.
- 1-106. Ordinance adoption procedures.

1-101. Time and place of regular meetings, work sessions, and town hall meetings. (1) The time of the regular meeting of the board of commissioners shall be 6:30 P.M. on the first Thursday of each month. In the event the regular meeting falls on an official holiday or the board of commissioners deems appropriate by a majority vote a new regular meeting date may be set.

(2) The place of the regular meeting of the board of commissioners shall be at the city hall, 10001 U.S. Highway 70, Lakeland, TN.

(3) The time of the work session shall be 6:30 P.M. on the Tuesday nine (9) days before the first Thursday of the following month. In the event the

¹Charter reference

For detailed provisions of the charter related to the election, and to general and specific powers and duties of, the board of commissioners, see Tennessee Code Annotated, title 6, chapter 20. (There is an index at the beginning of chapter 20 which provides a detailed breakdown of the provisions in the charter.) In addition, see the following provisions in the charter that outline some of the powers and duties of the board of commissioners:

Appointment and removal of city judge: § 6-21-501.

Appointment and removal of city manager: § 6-21-101.

Compensation of city attorney: § 6-21-202.

Creation and combination of departments: § 6-21-302.

Subordinate officers and employees: § 6-21-102.

Taxation

Power to levy taxes: § 6-22-108.

Change tax due dates: § 6-22-113.

Power to sue to collect taxes: § 6-22-115.

Removal of mayor and commissioners: § 6-20-220.

Ord. #01-15, March 2001, available in the office of the recorder, sets biennial municipal elections on the third Thursday in September.

work session falls on an official holiday or the board of commissioners deems appropriate by a majority vote a new work session date may be set.

(4) The place of the work session of the board of commissioners shall be at the city hall, 10001 U.S. Highway 70, Lakeland, TN.

(5) The time of the town hall meeting (a board of commissioners meeting) shall be 6:30 P.M. before the regular meeting in May and November. In the event the town hall meeting falls on an official holiday or the board of commissioners deems appropriate by a majority vote, a new town hall meeting date may be set.

(6) The place of the town hall meeting shall be at the city hall, 10001 U.S. Highway 70, Lakeland, TN.

(7) If all business has not been completed by adjournment the meeting may be recessed until the following work day at 6:30 P.M.

(8) Any meeting of the board of commissioners, the place of the meeting and the time of the meeting may be changed by majority vote.

(9) The meeting schedule of the mayor and board of commissioners shall be set annually at the December regular meeting; said schedule may be amended by majority vote of the board. (1989 Code, § 1-101, as amended by Ord. #98-03, May 1998, Ord. #00-01, March 2000, Ord. #01-21, Sept. 2001, Ord. #02-01, Feb. 2002, Ord. #09-133, July 2009, Ord. #10-142, Feb. 2010, Ord. #11-161, July 2011, and Ord. #2014-204, March 2014)

1-102. Order of business. At each meeting, including work sessions of the board of commissioners, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by mayor:
- (2) Invocation:
- (3) Pledge:
- (4) Roll call by recorder:
- (5) Public hearing:
- (6) Treasurer's report:
- (7) Reports from committees, members of the board of commissioners, and other officers:
- (8) Public discussion:
- (9) Sewerage commission business:
- (10) Consent agenda:
- (11) Regular agenda:
- (12) Announcements:
- (13) Adjournment:

(1989 Code, § 1-102, as amended by Ord. #02-01, Feb. 2001, Ord. #03-34, May 2003, Ord. #04-57, Feb. 2004, Ord. #2014-205, April 2014, and Ord. #16-236, April 2016)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the

transaction of business by and before the board of commissioners at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1989 Code, § 1-103)

1-104. Compensation. The salary of the mayor shall be five hundred dollars (\$500.00) per month. The salary of the other commissioners shall be four hundred dollars (\$400.00) per month. (1989 Code, § 1-104, as amended by Ord. #03-22, Feb. 2003)

1-105. Approval for recording, broadcasting, or telecasting meetings. Video recording, broadcasting or telecasting of any city meeting without the prior written approval of the city commission is prohibited. With the exception of legitimate news media personnel having proper identification. (1989 Code, § 1-105)

1-106. Ordinance adoption procedures. (1)(a) There is hereby established a procedure that every ordinance, or amendment thereto, shall be read two (2) different days in open session before its adoption, with a public hearing in open session between the first and second readings.

(b) Not less than seven (7) days shall elapse between the first and second readings.

(c) Not more than one (1) year shall elapse between the first reading and the second reading.

(d) Any ordinance not so read shall be null and void.

(2) There is hereby established a procedure to read only the caption of an ordinance, instead of the entire ordinance, on both readings.

(3) The provisions of this amendment are retroactive to the extent that any ordinance, or amendment thereto, for which more than one (1) year has elapsed since passage of first reading without passage of second and final reading, shall be declared null and void until and unless the provisions of this amendment are complied with. (Ord. #179, Dec. 1995, as amended by Ord. #02-19, Nov. 2002, and Ord. #14-206, April 2014)

CHAPTER 2

MAYOR¹

SECTION

1-201. Duties and powers.

1-202. To be bonded.

1-201. Duties and powers.² The mayor shall preside at all meetings of the board of commissioners, sign the journal of the board and all ordinances on their final passage, execute all deeds, bonds, and contracts made in the name of the city, and perform all acts that may be required of him by any ordinance duly enacted by the board of commissioners, not in conflict with the charter. (1989 Code, § 1-201)

1-202. To be bonded. The mayor shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of commissioners.

¹Charter reference

For general charter provisions dealing with the election and duties of the mayor and vice mayor, see Tennessee Code Annotated, title 6, chapter 20, part 2, particularly §§ 6-20-201 and 6-20-203.

Ord. #01-15, March 2001, available in the office of the recorder, sets biennial municipal elections on the third Thursday in September.

²Charter references

For detailed provisions of the charter outlining the election, power and duties of the mayor see Tennessee Code Annotated, title 6, chapter 20, part 2, particularly, §§ 6-20-209, 6-20-213, and 6-20-219. For specific charter provisions in part 2 related to the following subjects, see the section indicated:

Election: § 6-20-201.

General duties: §§ 6-20-213 and 6-20-219.

May introduce ordinances: § 6-20-213.

Presiding officer: §§ 6-20-209 and 6-20-213.

Seat, voice and vote on board: § 6-20-213.

Signs journal, ordinances, etc.: § 6-20-213.

CHAPTER 3**RECORDER¹****SECTION**

1-301. To keep minutes, etc.

1-302. To perform general administrative duties, etc.

1-303. To be bonded.

1-301. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of commissioners and shall preserve the original copy of all ordinances in a separate ordinance book. (1989 Code, § 1-402)

1-302. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of commissioners and for the city which are not assigned by the charter, this code, or the board of commissioners to another corporate officer. He shall also have custody of, and be responsible for, maintaining all corporate bonds, records, and papers. (1989 Code, § 1-403)

1-303. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of commissioners. (1989 Code, § 1-401)

¹Charter references

For charter provisions outlining the duties and powers of the recorder, see Tennessee Code Annotated, title 6, chapter 21, part 4, and title 6, chapter 22. Where the recorder also serves as the treasurer, see Tennessee Code Annotated, title 6, chapter 22, particularly § 6-22-119.

CHAPTER 4

CITY MANAGER¹

SECTION

- 1-401. Duties and powers.
- 1-402. City manager to invest city funds.
- 1-403. To be bonded.
- 1-404. Authority to amend certain fees.

1-401. Duties and powers.² The city manager shall be the chief administrative officer of the city and shall exercise such authority and control over law and ordinance violations, departments, officers and employees, and city purchases and expenditures as the charter prescribes, and shall perform all other duties required of him pursuant to the charter. (1989 Code, § 1-301)

1-402. City manager to invest city funds. The city manager is hereby authorized to invest city funds in compliance with Tennessee Code Annotated, §§ 6-22-120 and 6-56-106. The city manager will provide the board of commissioners with an overview of proposed investments for their review and consent. (1989 Code, § 1-302)

1-403. To be bonded. The city manager shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of commissioners.

1-404. Authority to amend certain fees. The Lakeland City Manager shall have the authority to set Lakeland's fees for the following services:

¹Charter reference

For charter provisions outlining the appointment and removal of the city manager, see Tennessee Code Annotated, title 6, chapter 21, part 1, particularly § 6-21-101.

²Charter references

For specific charter provisions related to the duties and powers of the city manager, see the sections indicated:

Administrative head of city: § 6-21-107.

Appointment and removal of officers and employees: §§ 6-21-102, 6-21-108, 6-21-401, 6-21-601, 6-21-701 and 6-21-704, 6-22-101.

General and specific administrative powers: § 6-21-108.

School administration: § 6-21-801.

Supervision of departments: § 6-21-303.

(1) Parks and recreation fees including all team. fees, camp fees, pavilion rental fees, pavilion clean-up fees, IH Clubhouse rental fees, any rental cancellation fee, monthly storage fee, training/instructional/educational classes fees, and any other parks and recreation user fee.

Administrative fees that require the expenditure of Lakeland employees' time and Lakeland resources including: making copies, performing research, providing copies of manuals, providing copies of maps, providing digital data, and providing copies aerial photography.

All fees set by the city manager shall continue to bear a reasonable relation to the service provided. Additionally, the city manager shall review said fees annually and publish the current fees in the City of Lakeland fee schedule which is available at city hall.

All fees set by the city manager shall be presented to the board of commissioners no less than thirty (30) days prior to the effective date of the fee.

(2) The city manager shall not have any authority to alter or amend any building permit fees, accessory permit fees, sign permit fees, land disturbance permit fees, road cut permit fees, tree removal permit fees, DRC submission fees, board of zoning appeals fees, MPC fees, or development fees of any kind. Rather, the mayor and board of commissioners shall continue to set those fees by ordinance. (as added by Ord. #17-258, Dec. 2017 *Ch8_12-06-18*)

CHAPTER 5**CITY DEPARTMENTS****SECTION**

1-501. Departments of the city.

1-501. Departments of the city. That the work and affairs of the city may be classified and arranged conveniently and conducted efficiently, there are hereby established the following departments:

- (1) Department of public works and welfare.
- (2) Department of public safety.
- (3) Department of education.
- (4) Department of finance.
- (5) Department of administration.
- (6) Department of engineering.
- (7) Department of parks and recreation.
- (8) Department of natural resources and environment. (as added by Ord. #02-14, Nov. 2002)

CHAPTER 6

CODE OF ETHICS

SECTION

- 1-601. Applicability.
- 1-602. Definition of "personal interest."
- 1-603. Disclosure of personal interest by official with vote.
- 1-604. Disclosure of personal interest in non-voting matters.
- 1-605. Acceptance of gratuities, etc.
- 1-606. Use of information.
- 1-607. Use of municipal time, facilities, etc.
- 1-608. Use of position or authority.
- 1-609. Outside employment.
- 1-610. Ethics complaints.
- 1-611. Violations.

1-601. 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. (as added by Ord. #06-96, Oct. 2006)

1-602. Definition of "personal interest." (1) For purposes of §§ 1-603 and 1-604, "personal interest" means:

- (a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
- (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
- (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #06-96, Oct. 2006)

1-603. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #06-96, Oct. 2006)

1-604. 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 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. (as added by Ord. #06-96, Oct. 2006)

1-605. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #06-96, Oct. 2006)

1-606. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #06-96, Oct. 2006)

1-607. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #06-96, Oct. 2006)

1-608. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #06-96, Oct. 2006)

1-609. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #06-96, Oct. 2006)

1-610. 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 base 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 acquire 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 his code of ethics.

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #06-96, Oct. 2006)

1-611. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #06-96, Oct. 2006)

TITLE 2

BOARDS AND COMMISSIONS, ETC.¹

CHAPTER

1. MUNICIPAL PARKS AND RECREATION ADVISORY BOARD.
2. [DELETED.]
3. ECONOMIC DEVELOPMENT COMMISSION.
4. BOARD OF APPEALS.
5. [DELETED.]
6. SCHOOL BOARD.
7. KEEP LAKELAND BEAUTIFUL ADVISORY BOARD.

CHAPTER 1

MUNICIPAL PARKS AND RECREATION ADVISORY BOARD

SECTION

- 2-101. Creation.
- 2-102. Membership.
- 2-103. Current members.
- 2-104. By-laws.

2-101. Creation. There is hereby created a Municipal Parks and Recreation Advisory Board (PRB). Said board shall conduct its affairs in a manner that will be determined by the governing body of the city in resolutions passed by the governing body. (Ord. #00-07, June 2000)

2-102. Membership. The PRB shall consist of seven (7) members, one of which shall be a member of the governing body of the City of Lakeland appointed by that body. Six (6) members will be appointed by the governing body of the city for three (3) year staggered terms, with two (2) members appointed each year. Park board members may be reappointed. (Ord. #00-07, June 2000, as amended by Ord. #02-08, July 2002)

2-103. Current members. The terms of current members in good standing at the time of this amendment will expire as determined by Resolution 2001/12-89 of the Lakeland Board of Commissioners. Park board members may be reappointed. All reappointments are for three (3) year terms. (Ord. #00-07, June 2000, as amended by Ord. #02-08, July 2002)

¹Municipal Code reference

Fee schedule; copies of by laws, etc.: appendix A.

2-104. By-laws. The KLB will develop by-laws that will be submitted to the city manager for review, approval and official recording as board policy. (Ord. #00-07, June 2000, as amended by Ord. #02-08, July 2002)

CHAPTER 2

[DELETED]

(This chapter was deleted by Ord. #14-201, March 2014)

CHAPTER 3

ECONOMIC DEVELOPMENT COMMISSION

SECTION

2-301. Establishment and purpose.

2-302. Membership.

2-303. Terms of members.

2-304. Meetings.

2-305. Responsibilities.

2-301. Establishment and purpose. The economic development commission (hereinafter also referred to as the "EDC") is hereby established for the following purposes:

(1) Advise the board of commissioners on matters that affect the economic life of the community,

(2) Seek out, consider and suggest plans that define how and where the city will develop arterial, commercial and residential areas so as to enhance the city in the eyes of its citizens as well as present and future commercial interests,

(3) Advise the city regarding local economic issues relevant to long-term planning and development of the city, and

(4) Promote economic stability, vigor and balance within the business community and to encourage business retention and productivity. (as added by Ord. #02-10, Aug. 2002)

2-302. Membership. The EDC will consist of the eight (8) members who shall be appointed from time to time by a majority vote of the board of commissioners.

The composition of the membership shall be as follows:

(1) One (1) member shall also be a member of the board of commissioners not a member of the municipal planning commission to serve a two (2) year term;

(2) Seven (7) members shall be the same individuals appointed by the board of commissioners to serve on the Lakeland Development Corporation ("LDC"). The term of each member shall mirror his or her LDC term.

(3) The EDC shall select a chair and vice-chair. The city manager or his/her designee may serve as an ex-officio member and may serve as secretary. (as added by Ord. #02-10, Aug. 2002, and replaced by Ord. #16-234, Feb. 2016)

2-303. Terms of members. The terms of the seven (7) members that also serve on the LDC shall mirror their LDC term. Any member of the EDC may be removed at any time with or without cause by a majority vote of the board of commissioners. Unless the board of commissioners explicitly provides

otherwise, for members serving on both the EDC and LDC, removal from the EDC shall also remove the member(s) from the LDC. If a vacancy exists, the board of commissioners shall appoint a successor to fill the unexpired term. (as added by Ord. #02-10, Aug. 2002, and replaced by Ord. #16-234, Feb. 2016)

2-304. Meetings. The economic development commission shall designate the time and place for its meetings and shall adopt such rules and regulations as may be necessary for the proper conduct of its affairs. A majority of members shall constitute a quorum, and a quorum shall be required to transact any business of the economic development commission. The EDC shall keep minutes of its proceedings showing the vote on each question. (as added by Ord. #02-10, Aug. 2002)

2-305. Responsibilities. The economic development commission may undertake the following responsibilities in the context of the thrust and meaning of the Mission Statement and Strategic Plan for the City of Lakeland.

(1) It shall be the responsibility of the economic development commission to advise the board of commissioners on matters affecting the economic life of the community including, but not limited to:

- (a) The retention and expansion of business;
- (b) The development of new business consistent with the needs of the community and respective of its residential and rural character;
- (c) The strategic development of land for office, retail and service purposes;
- (d) The impact of city policies, rules and regulations and the delivery of city services on the local business community; and
- (e) The study and recommendation of actions designed to improve the business climate, economic viability and stability of the city business community.

(2) The commission may serve as a focal point for economic development activities by providing:

- (a) A clearing house for pertinent information for the promotion of the city; and
- (b) A research and resource center for information about the community for the support of city business, including business needs, market strategies and a long-term financial strategy for the economic well-being of the community.
- (c) A liaison between the business community and city government for the effective communication of concerns and interests by both entities; and
- (d) Support for the City of Lakeland Chamber of Commerce. (as added by Ord. #02-10, Aug. 2002)

CHAPTER 4

BOARD OF APPEALS

SECTION

- 2-401. Creation.
- 2-402. Membership, term and procedure.
- 2-403. Jurisdiction.
- 2-404. Duties.
- 2-405. Variations.

2-401. Creation. There is hereby created a board of appeals to serve as a board of appeals on application of an aggrieved party for variances from the requirements of ordinances of the City of Lakeland. (as added by Ord. #03-43, Aug. 2003)

2-402. Membership, term and procedure. The membership, term and procedures of the board of appeals shall be identical to that provided for the board of zoning appeals, as set forth in Article XII of the Zoning Ordinance for the City of Lakeland, Tennessee. (as added by Ord. #03-43, Aug. 2003)

2-403. Jurisdiction. The board of appeals shall be organized and shall carry out its powers, functions, and duties in accordance with Tennessee Code Annotated, §§ 13-7-205 through 13-7-207, and shall have jurisdiction to review civil penalties and/or damage assessment concerning stormwater management and water pollution plans pursuant to Tennessee Code Annotated, § 68-221-1106(d). (as added by Ord. #03-43, Aug. 2003, and replaced by Ord. #14-203, Feb. 2014)

2-404. Duties. It shall be the duty of the board of appeals to hear and decide any appeal or any decision, order or interpretation by the officer whose duty it is to enforce the ordinance from which an aggrieved party seeks relief, provided the matter is within the jurisdiction of the board of appeals. (as added by Ord. #03-43, Aug. 2003)

2-405. Variations. The board of appeals shall have authority to grant variances from those ordinances of the City of Lakeland over which it has jurisdiction and only to the extent provided in the ordinance from which appeal is before the board of appeals. (as added by Ord. #03-43, Aug. 2003)

CHAPTER 5

[DELETED]

(This chapter was deleted by Ord. #14-203, Feb. 2014)

CHAPTER 6

SCHOOL BOARD

SECTION

2-601. Establishment and provisions.

2-601. Establishment and provisions. (1) A municipal school board for the City of Lakeland shall be established in compliance with applicable state law.

(2) The municipal school board for the City of Lakeland shall consist of five (5) members to be elected from the municipality at large.

(3) In order to be eligible to be a member of the municipal school board for the City of Lakeland, one must be a citizen of the State of Tennessee, be a resident and qualified voter of the City of Lakeland, have achieved a high school diploma or GED and filed documentation satisfactory to the Shelby County Election Commission evidencing same, have attained the age of eighteen (18) years at the time of their election, and otherwise meet all other requirements of applicable state law at the time one seeks election.

(4) All elections for the municipal school board for the City of Lakeland shall be conducted on a non-partisan basis.

(5) No member of the governing body of the City of Lakeland shall be eligible for election as a member of the municipal school board for the City of Lakeland.

(6) The initial terms for members of the municipal school board for the City of Lakeland shall vary in length, provided that all subsequently elected members, other than members to fill a vacancy, shall be elected to four (4) year terms. The three (3) candidates receiving the highest number of votes in the November 7, 2013 municipal special election shall each be elected to a four (4) year term ending with the September 2017 Lakeland elections and the two (2) candidates receiving the next highest number of votes in the November 7, 2013 municipal special election shall each be elected to a two (2) year term ending with the September 2015 Lakeland elections.

(7) Members of the municipal school board for the City of Lakeland may succeed themselves.

(8) Vacancies occurring on the municipal school board for the City of Lakeland shall be filled by the board of commissioners by appointment of a person who would be eligible to serve as a member of the municipal school board, with such member to serve until a successor is elected and qualifies according to applicable law, the successor to be elected at the next general election for which candidates have sufficient time to qualify under applicable law.

(9) The initial municipal school board for the City of Lakeland shall take office on the first day of the first month following certification of the results of the election to select the members of the initial municipal board.

(10) Compensation for members of the municipal school board for the City of Lakeland shall be two thousand four hundred dollars (\$2,400.00) per annum.

(11) A municipal special election to select the members of the initial municipal school board of the City of Lakeland shall be held on November 7, 2013, or on some other appropriate date.

(12) The City of Lakeland, in accordance with state law, shall file this ordinance with the Shelby County Election Commission with a request that the special election to select the members of the initial municipal school board of the City of Lakeland be held on November 7, 2013.

(13) If the Shelby County Election Commission cannot hold the election to select the members of the initial municipal school board of the City of Lakeland on said November 7, 2013, the election shall be held on a date within the time prescribed by applicable state law. (as added by Ord. #13-196, Aug. 2013)

CHAPTER 7

KEEP LAKELAND BEAUTIFUL ADVISORY BOARD

SECTION

- 2-701. Creation.
- 2-702. Membership.
- 2-703. Terms of members.
- 2-704. By-laws.
- 2-705. Meetings.
- 2-706. Responsibilities.
- 2-707. Severability.

2-701. Creation. There is hereby created a Keep Lakeland Beautiful Advisory Board (KLB). Said board shall conduct its affairs in a manner that will be determined by the governing body of the city in resolutions passed by the governing body. (as added by Ord. #16-235, March 2016)

2-702. Membership. The KLB will consist of five (5) members who shall be appointed by a majority vote of the board of commissioners.

The composition of the membership shall be as follows:

- (1) One (1) member shall also be a member of the board of commissioners to serve a one (1) year term;
- (2) Four (4) members shall be "at-large" members who shall each serve three (3) year terms.

The KLB shall select a chair, vice-chair, and secretary. (as added by Ord. #16-235, March 2016)

2-703. Terms of members. Terms of the four (4) "at-large" members shall be staggered, three (3) year appointments and shall expire on December 31 or until their successors are appointed. Any member of the KLB may be removed at any time with or without cause by a majority vote of the board of commissioners. If a vacancy exists, the board of commissioners shall appoint a successor to fill the unexpired term. (as added by Ord. #16-235, March 2016)

2-704. By-laws. The KLB shall develop by-laws that will be submitted to the board of commissioners for review and approval and shall be officially recorded as board policy. (as added by Ord. #16-235, March 2016)

2-705. Meetings. The KLB shall designate the time and place for its meetings and shall adopt such rules and regulations as may be necessary for the proper conduct of its affairs. A majority of members shall constitute a quorum, and a quorum shall be required to transact any business of the KLB. The KLB

shall keep minutes of its proceedings showing the vote on each question. (as added by Ord. #16-235, March 2016)

2-706. Responsibilities. The KLB shall be responsible for the following:

(1) Administering and maintaining active status as an official affiliate of Keep America Beautiful.

(2) Creating, maintaining, and growing a volunteer team to participate in beautification efforts of the City of Lakeland, including, but not limited to, litter collection and landscape maintenance.

(3) Monitoring available beautification grants and making recommendations to the board of commissioners for application. (as added by Ord. #16-235, March 2016)

2-707. Severability. The provisions of this chapter are severable. If any provision of this chapter or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or application of this chapter that can be given effect without the invalid provision or application. (as added by Ord. #16-235, March 2016)

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

1. MUNICIPAL JUDGE AND MUNICIPAL COURT CLERK.
2. COURT ADMINISTRATION.
3. SUMMONSES AND SUBPOENAS.
4. APPEALS.

CHAPTER 1**MUNICIPAL JUDGE AND MUNICIPAL COURT CLERK****SECTION**

- 3-101. Municipal judge.
- 3-102. Jurisdiction.
- 3-103. Administration of oaths.
- 3-104. Prohibition against holding other offices.
- 3-105. Training and continuing education requirements.
- 3-106. Sitting by interchange.
- 3-107. Contempt of municipal court.
- 3-108. Municipal court clerk.
- 3-109. Maintenance of records.
- 3-110. Training and education requirements of clerk.

¹Charter references

City judge:

Appointment and term: § 6-21-501.

Jurisdiction: § 6-21-501.

Qualifications: § 6-21-501.

City court operations:

Appeals from judgment: § 6-21-508.

Appearance bonds: § 6-21-505.

Arrest warrants: § 6-21-504.

Docket maintenance: § 6-21-503.

Fines and costs:

Amounts: §§ 6-21-502, 6-21-507.

Collection: § 6-21-507.

Disposition: § 6-21-506.

3-101. Municipal judge. (1) The officer designated by the charter to handle judicial matters within the city shall preside over the city court and shall be known as the municipal judge.

(a) **Qualifications.** The municipal judge for the City of Lakeland shall be at least thirty (30) years of age, licensed in the State of Tennessee to practice law, and shall be a resident of Shelby County.

(b) **Appointment.** The municipal judge shall be appointed by and serve at the will and pleasure of the board of commissioners.

(c) **Vacancies in office.** Vacancies in the office of municipal judge shall be filled by the board of commissioners.

(d) **Compensation.** The compensation of the municipal judge shall be two hundred fifty dollars (\$250.00) per court session.

(e) **Judge pro tem.** During the absence or disability of the municipal judge, the board of commissioners may appoint a municipal judge pro tem to service until the municipal judge returns to his/her duties. The judge pro tem shall have all the qualifications required of the municipal judge under this section and shall have the authorities and powers of the municipal judge. (as added by Ord. #02-12, Nov. 2002, amended by Ord. #03-32, April 2003, and replaced by Ord. #17-259, Dec. 2017 *Ch8-12-06-18*)

3-102. Jurisdiction. The municipal court shall have jurisdiction in and over cases for violation of, and cases arising under, the laws and ordinances of Lakeland. The municipal court shall also possess jurisdiction to enforce any Lakeland law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of a state criminal statute, if and only if the state criminal statute mirrored, duplicated or cross-referenced is a Class C misdemeanor and the maximum penalty prescribed by Lakeland law or ordinance is a civil fine not in excess of fifty dollars (\$50.00). (as added by Ord. #02-12, Nov. 2002, replaced by Ord. #03-32, April 2003, and Ord. #17-289, Dec. 2017 *Ch8-12-06-18*)

3-103. Administration of oaths. The municipal judge shall be authorized to administer oaths. (as added by Ord. #17-259, Dec. 2017 *Ch8-12-06-18*)

3-104. Prohibition against holding other offices. The municipal judge may not concurrently hold any other office or employment with the City of Lakeland. (as added by Ord. #17-259, Dec. 2017 *Ch8-12-06-18*)

3-105. Training and continuing education requirements. The municipal judge shall meet all training and continuing education requirements set forth in Tennessee law.

(1) The municipal judge shall be compensated and reimbursed for attending required training or continuing education in accordance with Lakeland's travel policy.

(2) Training or continuing education hours may be carried over for one (1) calendar year. (as added by Ord. #17-259, Dec. 2017 *Ch8-12-06-18*)

3-106. Sitting by interchange. The municipal court judge shall be authorized to sit by interchange for other municipal court judges. (as added by Ord. #17-259, Dec. 2017 *Ch8-12-06-18*)

3-107. Contempt of municipal court. Contempt of municipal court shall be punishable by fine in the amount of fifty dollars (\$50.00), or such lesser amount as may be imposed in the municipal judge's discretion. (as added by Ord. #17-259, Dec. 2017 *Ch8-12-06-18*)

3-108. Municipal court clerk. The board of commissioners shall appoint a person to serve as the municipal court clerk. Immediately upon such appointment, the city manager shall promptly certify the appointment to the Tennessee administrative office of the courts and shall supply such additional information concerning the clerk as required by the administrative director. (as added by Ord. #17-259, Dec. 2017 *Ch8-12-06-18*)

3-109. Maintenance of records. The municipal court clerk shall maintain an accurate and detailed record and summary report of all financial transactions and affairs of the municipal court. The record and report shall accurately reflect all disposed cases, assessments, collections, suspensions, waivers and transmittals of litigation taxes, court costs, forfeitures, fines, fees and any other receipts and disbursements. (as added by Ord. #17-259, Dec. 2017 *Ch8-12-06-18*)

3-110. Training and education requirements of clerk. The municipal court clerk shall meet any training and continuing education requirements set forth in Tennessee law. The municipal court clerk shall be compensated and reimbursed for attending required training or continuing education in accordance with Lakeland's travel policy. (as added by Ord. #17-259, Dec. 2017 *Ch8-12-06-18*)

CHAPTER 2

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of penalties and costs.
- 3-203. Disposition and report of penalties and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Municipal litigation tax.
- 3-206. Municipal court costs.

3-201. Maintenance of docket. The municipal judge with the aid of the municipal court clerk shall keep a complete docket of all matters coming before the municipal court. (as added by Ord. #02-12, Nov. 2002, and replaced by Ord. #17-259, Dec. 2017 *Ch8_12-06-18*)

3-202. Imposition of penalties and costs. All penalties and costs shall be imposed and recorded by the municipal judge on the municipal court docket in open court. (as added by Ord. #02-12, Nov. 2002, and replaced by Ord. #17-259, Dec. 2017 *Ch8_12-06-18*)

3-203. Disposition and report of penalties and costs. All funds coming into the hands of the municipal court in the form of penalties, costs, and forfeitures shall be recorded by the municipal court clerk and shall be paid into the treasury of Lakeland. At the end of each month, the municipal court clerk shall submit a report to the Lakeland Board of Commissioners accounting for the collection or non-collection of ah penalties and costs imposed by the municipal judge during the current month and to date for the current fiscal year. (as added by Ord. #02-12, Nov. 2002, and replaced by Ord. #17-259, Dec. 2017 *Ch8_12-06-18*)

3-204. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any municipal court proceeding. (as added by Ord. #02-12, Nov. 2002, and replaced by Ord. #17-259, Dec. 2017 *Ch8_12-06-18*)

3-205. Municipal litigation tax. In all cases in municipal court, there is hereby levied a municipal litigation tax of thirteen dollars and seventy-five cents (\$13.75) which is equal to the prevailing state privilege tax on litigation in municipal courts. Notwithstanding the aforementioned municipal litigation privilege tax, there shall be no municipal litigation privilege tax levied or collected for a violation of any municipal law or ordinance governing the use of

a public parking space. (as added by Ord. #03-37, June 2003, and replaced by Ord. #17-259, Dec. 2017 *Ch8_12-06-18*)

3-206. Municipal court costs. In all cases before the Lakeland Municipal Court, there is hereby levied reasonable court costs of twenty five dollars (\$25.00) per case. The municipal court clerk shall forward one dollar (\$1.00) of the municipal court costs to the administrative office of the courts for the sole purpose of defraying the administrative director's expenses in providing training and continuing education courses for municipal court judges and municipal court clerks. (as added by Ord. #17-259, Dec. 2017 *Ch8_12-06-18*)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of summonses.

3-302. Issuance of subpoenas.

3-303. Deleted.

3-301. Issuance of summonses. When a complaint of an alleged municipal law or municipal ordinance violation is made to the municipal judge, the judge may issue a summons ordering the alleged offender to personally appear before the municipal court at a time specified therein to answer to the charges against him or her. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the municipal code or ordinance alleged to have been violated. Upon failure of any person to appear before the municipal court as commanded in a summons lawfully served upon him or her, the cause may proceed ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right to appeal. (as added by Ord. #02-12, Nov. 2002, and replaced by Ord. #17-259, Dec. 2017 *Ch12_12-06-18*)

3-302. Issuance of subpoenas. The municipal judge may subpoena as witnesses all persons whose testimony he or she believes will be relevant and material to matters coming before his or her court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (as added by Ord. #02-12, Nov. 2002, and replaced by Ord. #17-259, Dec. 2017 *Ch12_12-06-18*)

3-303. Deleted. (Ord. #02-12, Nov. 2002, as deleted by Ord. #17-259, Dec. 2017 *Ch12_12-06-18*)

CHAPTER 4**APPEALS****SECTION**

3-401. Appeals.

3-402. Pauper's oath.

3-403. Deleted.

3-401. Appeals. Any person, corporation, or business entity dissatisfied with the judgment of the municipal court may, within ten (10) days thereafter, Sundays exclusive, appeal to the Shelby County Circuit Court, upon giving bond in the amount of two hundred fifty dollars (\$250.00) for the person's appearance and the faithful prosecution of the appeal. This section shall not affect Lakeland's authority to appeal an unsatisfactory judgment. (as added by Ord. #02-12, Nov. 2002, and replaced by Ord. #17-259, Dec. 2017 *Ch8_12-06-18*)

3-402. Pauper's oath. A bond is not required provided the defendant/appellant files the following oath of poverty:

I, _____, do solemnly swear under the penalties of perjury, that owing to my poverty, I am not able to bear the expense of the action which I am about to commence, and that I am justly entitled to the relief sought, to the best of my belief. Any person filing a pauper's oath must also file an accompanying affidavit of indigency. (as added by Ord. #02-12, Nov. 2002, and replaced by Ord. #17-259, Dec. 2017 *Ch8_12-06-18*)

3-403. Deleted. (as added by Ord. #02-12, Nov. 2002, and deleted by Ord. #17-259, Dec. 2017 *Ch8_12-06-18*)

TITLE 4**MUNICIPAL PERSONNEL**¹**CHAPTER****1. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.****CHAPTER 1****OCCUPATIONAL SAFETY AND HEALTH PROGRAM****SECTION**

- 4-101. Title.
- 4-102. Purpose.
- 4-103. Coverage.
- 4-104. Standards authorized.
- 4-105. Variances from standards authorized.
- 4-106. Administration.
- 4-107. Funding the program.

4-101. Title. This chapter shall provide authority for establishing and administering the occupational safety and health program for the employees of the City of Lakeland. (as added by Ord. #05-76, April 2005)

4-102. Purpose. The board of commissioners in electing to establish and maintain an effective occupational safety and health program for its employees shall:

- (1) Provide a safe and healthful place and condition of employment.
- (2) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (3) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards and provide for education and notification of all employees of the existence of this program. (as added by Ord. #05-76, April 2005)

¹Administrative ordinances and resolutions providing personnel policies and procedures are in the office of the recorder.

4-103. Coverage. The provisions of the occupational safety and health program for the employees of the City of Lakeland shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Lakeland whether part-time or full-time, seasonal or permanent. (as added by Ord. #05-76, April 2005)

4-104. Standards authorized. The occupational safety and health standards adopted by the City of Lakeland are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.¹ (as added by Ord. #05-76, April 2005)

4-105. Variances from standards authorized. The City of Lakeland may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Lakeland shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the board of commissioners shall be deemed sufficient notice to employees. (as added by Ord. #05-76, April 2005)

4-106. Administration. For the purposes of this chapter, the city manager or his designee is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the city safety program. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #05-76, April 2005)

4-107. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Lakeland Board of Commissioners. (as added by Ord. #05-76, April 2005)

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. WHOLESALE BEER TAX.
3. BUSINESS TAX ACT.
4. PURCHASING.
5. HOTEL/MOTEL OCCUPANCY TAX.
6. REAL AND PERSONAL PROPERTY TAX.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depositories for city funds.
- 5-102. Fiscal year of the city.
- 5-103. Collateral for city funds.

5-101. Official depositories for city funds.² The following financial institutions are hereby designated as official depositories for city accounts and investments: Trustmark National Bank, Regions Bank, First Citizens National Bank, Suntrust Bank, Bank of Bartlett, and First Tennessee Bank. (1989 Code, § 6-101, as replaced by Ord. #03-23, Feb. 2003, and amended by Ord. #08-124, Nov. 2008)

5-102. Fiscal year of the city. The fiscal year of the city shall begin on July 1 and end on June 30, as allowed by § 6-22-121 of the city charter.³ (1989 Code, § 6-102)

5-103. Collateral for city funds. Collateral for city funds shall comply with Tennessee Code Annotated, §§ 6-56-106 and 9-4-105.

¹Charter reference

Finance and taxation: title 6, chapter 22.

²Charter reference

Tennessee Code Annotated, § 6-22-120 prescribes depositories for city funds.

³Charter reference

Tennessee Code Annotated, § 6-22-121 provides that the fiscal year of the city shall begin on July 1 unless otherwise provided by ordinance.

CHAPTER 2**WHOLESALE BEER TAX****SECTION**

5-201. To be collected.

5-201. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1989 Code, § 6-201)

¹State law reference

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

CHAPTER 3

BUSINESS TAX ACT

SECTION

5-301. Tax levied.

5-302. Business license required.

5-303. Violations.

5-304. Applicability.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the State's "Business Tax Act" (Tennessee Code Annotated, title 67, chapter 58) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the municipality at the rates and in the manner prescribed by the Act. (1989 Code, § 6-301)

5-302. Business license required. 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 requirement to have and exhibit a Business License, except those professions exempt by the Tennessee State Code. This license shall be issued by the city recorder to each applicant therefore upon such applicants compliance with all regulatory provisions and payment of the appropriate privilege tax. (1989 Code, § 6-302)

5-303. Violations. Any person, firm or corporation which carries on any vocation, occupation or business herein declared to be a privilege and taxed as such, that fails to comply with the Business Tax Act shall be subject to the penalties prescribed by Tennessee Code Annotated, § 67-1-1801, et seq. (1989 Code, § 6-303)

5-304. Applicability. All ordinances or parts of ordinances heretofore enacted which are in conflict with this chapter are hereby declared to be void and are hereby repealed upon implementation of this chapter. (1989 Code, § 6-304)

CHAPTER 4

PURCHASING

SECTION

5-401. Responsibility of manager.

5-402. Purchasing limits.

5-403. Exceptions.

5-401. Responsibility of manager. The city manager shall be responsible for all purchasing, but he may delegate the responsibility to any subordinate or subordinates who are appointed by him. (1989 Code, § 1-701)

5-402. Purchasing limits. (1) Purchases less than \$2,500.00. Competitive bids or quotations for the purchase of items which cost less than twenty-five hundred dollars (\$2,500.00) are desirable but not mandatory. All purchases must be authorized by purchase order approved by the city manager unless otherwise specifically exempt.

(2) Purchases of \$2,500.00 and above, but less than \$10,000.00. Purchases, leases, and lease purchases of twenty-five hundred dollars (\$2,500.00) and above, and less than ten thousand dollars (\$10,000.00) singly or in the aggregate during any fiscal year and, except as otherwise provided, shall require three (3) competitive bids or quotations, either verbal or written, whenever possible prior to each purchase.

(3) Purchases of \$10,000.00 and above. A description of all projects or purchases, except as otherwise provided, which require the expenditure of city funds of ten thousand dollars (\$10,000.00) or more shall be prepared and submitted to the city manager for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the city manager or designee may approve a purchase order and may authorize to advertise for bids or proposals and to accept only sealed bids. (Ord. #201, May 1997, as replaced by Ord. #13-184, Jan. 2013)

5-403. Exceptions. Exceptions to the city's purchasing limits set forth in § 5-402 are as follows:

(1) Sole source of supply or proprietary products as determined after complete search by the city manager or designee, after which the city manager shall provide notification to the board.

(2) Emergency expenditures with subsequent approval of the city manager or designee in accordance with the provisions herein.

(3) Purchases from instrumentalities created by two (2) or more cooperating governments.

(4) Purchases from non-profit corporations whose purpose or one of whose purposes is to provide goods or services specifically to municipalities.

- (5) Purchases, leases, or lease-purchases of real property.
- (6) Purchases, leases, or lease-purchases from any federal, state, or local governmental unit or agency, of second-hand articles or equipment or other materials, supplies, commodities, and equipment.
- (7) Purchases through other units of governments as authorized by Tennessee Code Annotated, § 6-56-301 et seq.
- (8) Purchases directed through or in conjunction with the state department of general services.
- (9) Purchases from Tennessee state industries.
- (10) Professional service contracts as provided in Tennessee Code Annotated, § 29-20-407.
- (11) Tort liability insurance as provided in Tennessee Code Annotated, § 12-4-407.
- (12) Purchases of perishable commodities.
- (13) Professional services as provided in consultant selection policy for projects funded in whole or in part with funds provided by the federal highway administration or the Tennessee Department of Transportation (Local Government Guidelines Form 1-2). (1989 Code, § 1-703, as replaced and renumbered by Ord. #13-184, Jan. 2013)

CHAPTER 5

HOTEL/MOTEL OCCUPANCY TAX

SECTION

- 5-501. Definitions.
- 5-502. Levy of occupancy tax.
- 5-503. Collection by operator; inclusion in rate.
- 5-504. Remittance of tax by operator.
- 5-505. Collection of tax by city.
- 5-506. Disclosure of tax.
- 5-507. Failure of operator to collect tax.
- 5-508. Rules and regulations; reports; records.
- 5-509. Allocation of funds.

5-501. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) “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 any deduction there from 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.

(2) “City manager” means the city manager of the city.

(3) “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 camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(4) “Occupancy” means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(5) “Operator” means the person operating the hotel whether as owner, lessee or otherwise.

(6) “Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(7) “Transient” means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodation in a hotel for a period of less than thirty (30) continuous days. (as added by Ord. #06-95, Sept. 2006)

5-502. Levy of occupancy tax. The city hereby levies a privilege tax upon the privilege of occupancy in a hotel of each transient in an amount of five percent (5%) of the rate charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this chapter. (as added by Ord. #06-95, Sept. 2006)

5-503. Collection by operator; inclusion in rate. (1) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient for the occupancy of the operator's hotel. Such tax shall be collected by such operator from the transient and remitted to the city.

(2) When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the city. (as added by Ord. #06-95, Sept. 2006)

5-504. Remittance of tax by operator. (1) The tax levied shall be remitted to the city manager or his designee by all operators who lease, rent or charge for rooms or spaces in hotels within the city, and the city manager is charged with the duty of collection thereof. Such tax shall be remitted to such officer not later than the 20th day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city for such tax shall be that of the operator.

(2) For the purpose of compensating the operator in accounting for and remitting the tax authorized and levied pursuant hereto and the related ordinances of the city, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the city in the form of a deduction in submitting his report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment. (as added by Ord. #06-95, Sept. 2006)

5-505. Collection of tax by city. (1) The city manager shall be responsible for the collection of such tax and shall place the proceeds of such tax in the general funds account of the city. A monthly tax return shall be filed under oath with the city manager by the operator, with such number of copies thereof as the city manager may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the city manager and approved by the board of commissioners prior to use. The city manager shall cause an audit of each

operator in the city at least once per year and shall report on the audits made to the board of commissioners.

(2) The city manager is hereby authorized to adopt reasonable rules and regulations for the implementation of the provisions of this chapter. (as added by Ord. #06-95, Sept. 2006)

5-506. Disclosure of tax. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded. (as added by Ord. #06-95, Sept. 2006)

5-507. Failure of operator to collect tax. Taxes collected by an operator which are not remitted to the city manager on or before the due dates shall be delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and, in addition, a penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful failure or refusal of an operator to collect or remit the tax or the willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). In addition, it is unlawful for any operator to knowingly file a false tax return, and a violation shall be punishable by a civil penalty of not more than fifty dollars (\$50.00). (as added by Ord. #06-95, Sept. 2006)

5-508. Rules and regulations; reports; records. (1) It is the duty of every operator liable for the collection and payment to the city of any tax imposed under the authority of this chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax for which he may have been liable for the collection of and payment to the city, which records the city manager, his designee or any accounting firm or accountant employed by the city, shall have the right to inspect at all reasonable times.

(2) The city manager, in administering and enforcing the provisions of this chapter, shall have as additional powers those powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, § 67-1-101 et seq., or otherwise provided by law for county clerks and/or municipal officers.

(3) Upon any claim of illegal assessment and collection, the taxpayer shall have the remedies provided in Tennessee Code Annotated, § 67-9-101, et seq., it being the intent of this chapter that the provisions of law which apply to the recovery of state taxes illegally assessed and collected also apply to taxes illegally assessed and collected under the authority of this chapter. The city manager shall also possess those powers and duties as provided in Tennessee

Code Annotated, § 67-1-707 for county clerks with respect to the adjustments and refunds of such tax.

(4) With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the city manager under the authority of this chapter shall be refunded by the city.

(5) Notice of any tax paid under protest shall be given to the city manager, and suit may be brought for recovery of such tax against the city manager of the city in his official capacity. (as added by Ord. #06-95, Sept. 2006)

5-509. Allocation of funds. The proceeds of the tax authorized by this chapter shall be allocated to such funds as the board of commissioner shall from time to time direct. (as added by Ord. #06-95, Sept. 2006)

CHAPTER 6

REAL AND PERSONAL PROPERTY TAX

SECTION

5-601. Tax established.

5-601. Tax established. A real and personal property tax is hereby adopted which shall be implemented and collected and operated as follows:

(1) A tax shall be assessed and levied and collected upon all real property within the boundaries of the City of Lakeland based upon the value thereof as that value is ascertained by the assessment for taxation.

(2) The tax rate which shall be assessed on real and personal property shall be set by the board of commissioners as reflected in an appropriate ordinance at or after passing and establishing an annual budget for each fiscal year.

(3) Personal property shall be assessed in accordance with the general law of the State of Tennessee as contained in Tennessee Code Annotated, § 67-5-901 et seq.

(4) Both real and property taxes shall be collected as provided under the general law of the State of Tennessee as contained in Tennessee Code Annotated, § 67-5-1801 et seq.

(5) All delinquent property taxes shall be pursued and collected under the general law of the State of Tennessee as provided in Tennessee Code Annotated, § 67-5-2005 et seq., which authorizes the county trustee to collect delinquent municipal property taxes.

(6) All taxes assessed by the City of Lakeland upon any property of whatever kind, and all penalties, interest and costs accruing thereon, shall become and remain a first lien upon such property from January 1 of the year for which such taxes are assessed as provided in Tennessee Code Annotated, § 67-5-201 et seq.

(7) The schedule for due date and delinquencies shall be the same as provided by general law of the State of Tennessee for counties.

(8) All other aspects of the assessment, levy and collection of the real and personal property tax not specifically provided for herein shall operate under the applicable general law of the State of Tennessee that relates to taxation by municipalities. (as added by Ord. #12-170, June 2012)

TITLE 6

LAW ENFORCEMENT¹

[RESERVED FOR FUTURE USE]

¹The City of Lakeland, by Ord. #03-38, June 2003, expresses its intent to have the Shelby County Sheriff's Department enforce the ordinances of the city.

TITLE 7**FIRE PROTECTION AND FIREWORKS¹****CHAPTER**

1. MISCELLANEOUS.
2. FIREWORKS.
3. FIRE PREVENTION CODE.

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

- 7-101. Storage of explosives, flammable liquids, etc.
7-102. Gasoline trucks.

7-101. Storage of explosives, flammable liquids, etc. (1) The storage of explosives and blasting agents at any location within the corporate limits is prohibited, except those businesses which qualify under § 7-201.

(2) With the exception of propane gas, the storage of flammable liquids in outside above ground tanks at any location within the corporate limits is prohibited.

(3) With the exception of propane gas, the bulk storage of liquified petroleum gas at any location within the corporate limits is prohibited. (1989 Code, § 7-101)

7-102. 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. (1989 Code, § 7-102)

¹Municipal code reference

Building, utility and housing codes: title 12.

CHAPTER 2

FIREWORKS

SECTION

- 7-201. Sale and manufacture of fireworks prohibited; exceptions.
- 7-202. Definition of fireworks.
- 7-203. Buildings used for the sale of fireworks.
- 7-204. Discharge of fireworks prohibited within the city.
- 7-205. Special fireworks displays.
- 7-206. Violations.
- 7-207. Fireworks sales.
- 7-208. Public fireworks displays.

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

The sale or manufacture of any fireworks within the corporate limits of the City of Lakeland, Tennessee, is prohibited, except as to any business(es) presently existing and presently doing such business. Such presently existing business(es) may continue the sale only, but not manufacture, of fireworks in conformity with all city, county and state laws, rules and regulations. (1989 Code, § 7-201)

7-202. Definition of fireworks. "Fireworks" means and includes any

combustible or explosive composition, or any substance or combination of substances, or device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, firecrackers, torpedoes, skyrockets, Roman candles, Daygo bombs, sparklers, or other devices of like construction and any devices containing any explosive or flammable compound, or any tablet or other device containing an explosive substance, except that the term "fireworks" shall not include any auto flares, paper caps containing not in excess of an average of twenty-five hundredths (.25) of a grain of explosive content per cap, and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times. (1989 Code, § 7-202)

7-203. Buildings used for the sale of fireworks. Any building used

for the sale of fireworks shall conform to any applicable building code provisions which pertain to buildings of its type, use and location. (1989 Code, § 7-203)

7-204. Discharge of fireworks prohibited within the city. It shall

be unlawful for any person to discharge any type of fireworks within the city limits. (1989 Code, § 7-204)

7-205. Special fireworks displays. Special public fireworks displays may be held when a permit therefor has been issued by the State Fire Marshal and approval for the display has been granted by the city commission. A copy of the permit issued by the State Fire Marshal must be submitted to the city commission not less than fifteen (15) days in advance of the proposed fireworks displays. (1989 Code, § 7-205)

7-206. Violations. It shall be unlawful for any person or organization to violate any provision of this chapter. Violations shall be punished according to the general penalty provision of this code of ordinances. (1989 Code, § 7-206)

7-207. Fireworks sales. Fireworks sales shall be permitted within the City of Lakeland only by businesses engaged in the fireworks business on September 4, 1986; and those businesses must meet the following conditions:

(1) Said business must be located in a C-2 commercial zone as defined by the Lakeland Zoning Ordinance.

(2) Approval must be obtained from the State Fire Marshall and other permits obtained as may be required by law.

(3) The minimum general liability insurance coverage for fireworks sales shall be not less than \$500,000 per occurrence and \$1,000,000 aggregate.

(4) Upon submission of documentation that the above provisions have been met, the annually renewable permit may be granted. (1989 Code, § 7-207, modified)

7-208. Public fireworks displays. Public fireworks displays will be permitted under the following conditions:

(1) Submission of an application giving the name of the organization and the responsible person to whom the permit will be issued.

(2) A draft site plan showing the location and lay-out of the area where the fireworks will be discharged will be required.

(3) Documented approval by the State Fire Marshall and other units of government as may be required by law.

(4) A certificate of insurance showing general liability coverage of at least \$500,000 per occurrence and \$1,000,000 aggregate.

(5) A permit fee of fifty dollars (\$50.00) is required for all non-commercial events and a permit fee of five hundred dollars (\$500.00) is required for commercial events. (1989 Code, § 7-208, modified, as amended by Ord. #2014-213, Aug. 2014)

CHAPTER 3

FIRE PREVENTION CODE

SECTION

7-301. Adoption of the code.

7-302. Fire marshal.

7-303. Duties.

7-304. Construction must comply with code.

7-301. Adoption of the code. Shelby County Ordinance 193 and all amendments is hereby adopted as the Fire Prevention Code for the City of Lakeland, Tennessee. (Ord. #00-03, May 2000)

7-302. Fire marshal. The Shelby County Fire Marshal or a qualified member of the fire marshal's staff may be appointed as fire marshal by the City Manager for the City of Lakeland per Tennessee Code Annotated, § 6-21-704, Fire Marshal. (Ord. #00-03, May 2000)

7-303. Duties. The appointed fire marshal duties shall be to investigate the cause, origin, and circumstances of fires and loss occasioned thereby, and assist in the prevention of arson and to enforce the Shelby County Fire Prevention Code. (Ord. #00-03, May 2000)

7-304. Construction must comply with code. All construction must comply with the Fire Prevention Code, § 603.15.8.1 except any construction that began before adoption of this chapter may be exempt from this code. (Ord. #00-03, May 2000)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. RETAIL SALE OF ALCOHOLIC BEVERAGES.
4. CONSUMPTION ON PREMISES (LIQUOR BY THE DRINK).

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Possession and consumption of alcoholic beverages in public parks.

8-101. Possession and consumption of alcoholic beverages in public parks. It shall be unlawful for any person to be in possession of, or to consume, any beverage with alcoholic content in any of the public parks or areas under the jurisdiction of the parks and recreation board, except as allowed by special permit issued by the Lakeland Board of Commissioners. (Ord. #206, July 1997)

¹State law reference
Tennessee Code Annotated, title 57.

CHAPTER 2

BEER¹

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. Reserved.
- 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.
- 8-217. Conflicting code provisions repealed.

8-201. Beer board established. There is hereby established a beer board to be composed of the board of commissioners of the City of Lakeland, who shall serve for the term of their elected office. The mayor of the City of Lakeland shall serve as the chairman. (1989 Code, § 2-201, as replaced by Ord. #07-110, Nov. 2007)

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 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 at least twelve (12) hours written notice is given to each member. The board may adjourn a meeting at any time to another time and place. (1989 Code, § 2-202, as replaced by Ord. #07-110, Nov. 2007)

¹State law reference

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

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; 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. (1989 Code, § 2-203, as replaced by Ord. #07-110, Nov. 2007)

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. (1989 Code, § 2-204, modified, as replaced by Ord. #07-110, Nov. 2007)

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the City of Lakeland in accordance with the provisions of this chapter. (1989 Code, § 2-205, as replaced by Ord. #07-110, Nov. 2007)

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight; provided however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. (1989 Code, § 2-206, as replaced by Ord. #07-110, Nov. 2007)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a nonrefundable 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 Lakeland. 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. (1989 Code, § 2-207, as replaced by Ord. #07-110, Nov. 2007)

8-208. Privilege tax.¹ There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the City of Lakeland, 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. (1989 Code, § 2-208, modified, as replaced by Ord. #07-110, Nov. 2007)

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. (1989 Code, § 2-209, modified, as replaced by Ord. #07-110, Nov. 2007)

8-210. Reserved. (1989 Code, § 2-210, as replaced by Ord. #07-110, Nov. 2007)

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, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, church or other place of public hearing.

No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous

¹State law reference

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

six (6) month period. (1989 Code, § 2-211, modified, as replaced by Ord. #07-110, Nov. 2007, and Ord. #16-241, June 2016)

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.

(2) Make or allow the sale of beer between the hours of 12:00 A.M. (midnight) and 6:00 A.M. on weekdays and between the hours of 12:00 A.M. (midnight) Saturday and 12:00 P.M. (noon) on Sunday.

(3) Make or allow any sale of beer to any intoxicated person.

(4) Allow drunk persons to loiter about his premises. (1989 Code, § 2-212, as replaced by Ord. #07-110, Nov. 2007, and Ord. #18-266, July 2018 *Ch8_12-06-18*)

8-213. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. Further, the beer board shall have the power to revoke or suspend any permit issued under the provisions of this chapter when a permit holder, within any twelve (12) month rolling period, receives two (2) or more citations arising out of the same code violation and the permit holder fails to adequately and timely remedy the violation. 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 city manager 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, § 57-6-606 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. (1989 Code, § 2-213, as replaced by Ord. #07-110, Nov. 2007, and Ord. #17-251, May 2017 *Ch8_12-06-18*)

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. 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 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. (1989 Code, § 2-214, modified, as replaced by Ord. #07-110, Nov. 2007)

8-215. Loss of clerk's certification for sale to minor. 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. (as added by Ord. #07-110, Nov. 2007)

8-216. Violations. 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. (as added by Ord. #07-110, Nov. 2007)

8-217. Conflicting code provisions repealed. Any provision(s) in the City of Lakeland code of ordinances in conflict with any provision in this chapter

is hereby deemed inoperative and repealed, specifically including, but not limited to title 8, chapter 2 of the City of Lakeland Municipal Code. (as added by Ord. #07-110, Nov. 2007)

CHAPTER 3

RETAIL SALE OF ALCOHOLIC BEVERAGES

SECTION

- 8-301. General.
- 8-302. Chapter not applicable to beer.
- 8-303. Certificate of compliance - retail package stores.
- 8-304. Certificate of compliance - retail food stores.
- 8-305. Restrictions on buildings and locations of retail stores.
- 8-306. Retail liquor license.
- 8-307. Consideration.
- 8-308. Inspection fee.
- 8-309. Operational rules and regulations.
- 8-310. Advertising.
- 8-311. Violations.

8-301. General. (1) Definitions. Whenever used in this chapter, the following terms shall have the following meanings unless the context necessarily requires otherwise:

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

(b) "Applicant." The party applying for a certificate of compliance or a license which shall include each person to have any interest, direct or indirect, in the license as owner or partner or in the case of a corporation as officer, director, or stockholder (see additional definition under "corporation").

(c) "Application." The form or forms an applicant is required to file in order to obtain a certificate of compliance or a license.

(d) "Certificate of compliance." The certificate provided for in Tennessee Code Annotated, title 57, chapter 3, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(e) "Corporation." All certificated entity forms recognized in the State of Tennessee, including, without limitation, limited liability companies, and "stockholder" and "officer" shall be deemed to include members, limited partners, managers, principals and equity holders in said entities.

(f) "Church." That portion of a building owned by a religious institution that has property tax exempt status that is used for worship services; however, the definition of church does not include buildings and portions of buildings that are used for purposes other than worship or

that are intended to be leased, rented or used by persons who do not have a tax exempt status.¹

(g) "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 sales of a licensee.

(h) "License." A license issued by the state under the provisions of this chapter for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail in the city.

(i) "Licensee." The holder of a license.

(j) "Liquor store." The building or the part of a building where a licensee conducts any of the business authorized by this license.

(k) "Retail food store" is an establishment open to the public and that derives at least twenty percent (20%) of its taxable sales from the retail sale of food and food ingredients for human consumption, as defined in Tennessee Code Annotated, § 67-6-228, and has retail floor space of at least one thousand two hundred (1,200) square feet.

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

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

(n) "School." Means all public, private, or parochial schools that conduct classes in any grade from kindergarten through grade twelve (12) (K-12). (Tennessee Code Annotated, § 49-2-4202, with "private or parochial" added).

(o) "State alcoholic beverage commission." The Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including without limitation the provision for which is made in the state statutes, including without limitation the provisions of Tennessee Code Annotated, title 57, chapter 3.

(p) "State liquor retailer's license." A license issued under the state statutes (including the provisions contained in Tennessee Code Annotated, title 57, chapter 1) for the purpose authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

(q) "State rules and regulations." All applicable rules and regulations of the state 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 state alcoholic beverage commission.

(r) "State statutes." The statutes of the state now in effect or as they may hereafter be changed.

¹State law reference

Tennessee Code Annotated, § 67-4-2903

(s) "Wholesale sale or sale at wholesale." A sale to any person for purposes of resale.

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

(u) "Wine." The product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climate, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed eighteen percent (18%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit, or other product from which the same was predominately produced, or an artificial or imitation wine. "Wine" does not mean alcohol derived from wine that has had substantial changes to the wine due to the addition of flavorings and additives.

(2) Compliance with all applicable laws and ordinances required. It shall be unlawful for any person either to engage in the business of selling, storing, transporting, or distributing any alcoholic beverage, or to sell, store, transport, distribute, purchase or possess any alcoholic beverage, except as provided by the state statutes, by the state rules and regulations, by the federal statutes and by this chapter.

(3) Wholesalers. Unless hereafter authorized by ordinance, no wholesaler's license shall be granted to any person for the operation of any business for the sale at wholesale of any alcoholic beverage. Any wholesaler, whose business is located outside the city and who holds a valid state license and who has paid to the city all privilege taxes and fees applicable to such wholesale business, may sell at wholesale any alcoholic beverage to a licensee in the city and such licensee may purchase any alcoholic beverage from such wholesaler, but only as provided by the state statutes, the state rules and regulations, the federal statutes, and by this chapter.

(4) Sale legalized. (a) It shall be lawful for a licensee to sell any alcoholic beverage at retail in a liquor store, within the corporate limits, provided such sales are made in compliance with applicable federal statutes, state statutes, state rules and regulations, and the provisions of this chapter.

(b) It shall be lawful for a retail food store with the appropriate license(s) to sell wine as provided in Tennessee Code Annotated, § 57-3-801, et seq.

(5) Liability of licensee for acts of others. Each licensee shall be responsible for all acts of such licensee's officers, stockholders, directors, employees, agents and representatives, so that any violation of this chapter by any officer, stockholder, director, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (as added by Ord. #16-242, June 2016)

8- 302. Chapter not applicable to beer. No provisions of this chapter shall be considered or construed as in any way modifying, changing or restricting the rules and regulations governing the sale, storage, transportation, etc., or tax upon beer or other liquids with an alcoholic content of five percent (5%) or less. (as added by Ord. #16-242, June 2016)

8-303. Certificate of compliance - retail package stores.

(1) Certificate of good moral character. When application is made of the certificate of good moral character required by Tennessee Code Annotated, § 57-3-208, as a condition to the issuance or renewal of a state alcoholic beverage license, such certificate shall be signed by the mayor.

The certificate shall state:

(a) That the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application;

(b) That the applicant or applicants have secured a location for the business which complies with all restrictions of any local law, ordinance, or resolution, duly adopted by the local jurisdiction, as to the location of the business;

(c) That the applicant or applicants have complied with any local law, ordinance or resolution duly adopted by the local authorities regulating the number of retail licenses to be issued within the jurisdiction.

(2) Application - filing: contents. For the applications submitted after the effective date, each application shall be accompanied with nonrefundable certified funds of five hundred dollars (\$500.00) and each applicant for a certificate of compliance shall file a completed form of application, on a form to be provided by the city manager, and which shall contain all of the following information:

(a) The name and street address of each person to have any interest, direct or indirect, in the license as owner, partner, or in the case of a corporation as officer, director or stockholder or otherwise;

(b) A statement of applicant's prior business experience;

(c) The proposed name of the liquor store to be operated under the license;

(d) The address of the liquor store to be operated under the license;

(e) The names and addresses of at least three (3) residents of the city who have known each applicant for at least two (2) years, and who are not related to the applicant;

(f) The agreement of each applicant to comply with the state, federal and city laws and ordinances and with the rules and regulations of the state alcoholic beverage commission with reference to the sale of alcoholic beverages, and the agreement of each applicant to the validity of and the reasonableness of the regulations, inspection fees and taxes provided in this chapter with reference to the sale of alcoholic beverages.

(g) The financial interest of the owners, partners, stockholders or directors, whether the same is a firm, partnership or corporation.

(h) The application form shall be accompanied by a questionnaire form completed by each person having interest in the business and five (5) copies of a scale plan drawn to a scale of not less than one inch equals fifty feet (1" = 50'), giving the following information:

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

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

(iii) The identification of every parcel of land within three hundred feet (300') of the lot upon which the liquor store is to be operated indicating ownership thereof and the locations of any structures situated thereon, and the use being made of every such parcel.

(i) The application form shall be signed and verified by each person to have any interest in the license either as owner or partner or in the case of a corporation, as officer, director or stockholder or otherwise.

(3) Misrepresentation or concealment of material fact. If any applicant misrepresents any material fact or conceals any material fact in any application form filed for the purpose of complying with the requirements contained in § 8-303(1), such applicant shall be deemed to have violated the provisions of this chapter.

(4) Restrictions upon issuance. (a) No certificate of compliance shall be issued unless a license issued on the basis thereof can be exercised without violating any provision of this chapter.

(b) The mayor shall not sign any certificate of compliance for any applicant until:

(i) Such applicant's application has been filed with the city manager;

(ii) The location stated in the certificate has been approved by the board of commissioners as a suitable location for the operation of a liquor store, and considering geography of the area to be served;

(iii) The application has been considered at a meeting of the board of commissioners and approved by the vote of at least three (3) members thereof.

(5) Restrictions upon corporate licenses. If a licensee is a corporation, then in addition to the other provisions of this chapter:

(a) No person owning stock in or who is an officer or director in such corporate licenses shall have any interest as an owner, stockholder, officer, director or otherwise in any business licensed to engage in the sale at wholesale or retail of alcoholic beverage in the state.

(b) No stock of such corporate licensee shall be transferred by sale, gift, pledge, operation of law or otherwise to any person who would not be otherwise qualified as an original stockholder of an initial corporate applicant for a license hereunder.

(6) Term renewal. Certificates of compliance shall be valid for two (2) years from issuance. Certificate renewals shall follow all guidelines and requirements as if they were an original application. Renewals shall be subject to compliance with all applicable state statutes, all applicable state rules and regulations and provisions of this chapter and a three hundred dollar (\$300.00) renewal fee. (as added by Ord. #16-242, June 2016)

8-304. Certificate of compliance - retail food stores. (1) Certificate of good moral character. When application is made of the certificate of good moral character required by Tennessee Code Annotated, § 57-3-803, as a condition to the issuance or renewal of a state alcoholic beverage license under that section, such certificate shall be signed by the mayor.

(a) The certificate shall state:

(i) That the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application;

(ii) That the applicant or applicants have secured a location for the business which complies with all restrictions of any local law, ordinance, or resolution, duly adopted by the local jurisdiction, as to the location of the business;

(iii) That the applicant or applicants have complied with any local law, ordinance or resolution duly adopted by the local authorities regulating the number of retail licenses to be issued within the jurisdiction.

(2) Application - filing: contents. For the applications submitted after the effective date, each application shall be accompanied with nonrefundable funds equal to the greater of twenty dollars (\$20.00) or the cost of the applicable background check. Each applicant for a certificate of compliance shall file a completed form of application, on a form to be provided by the city manager. (as added by Ord. #16-242, June 2016)

8-305. Restrictions on buildings and locations of retail stores.

(1) All retail sales shall be confined to the premises of the licensees. No curbside service is permitted nor shall there be permitted drive-in windows.

(2) No liquor store shall be located in the city on any premises above the ground floor. Each such store shall have only one (1) main entrance for use by the public as a means of ingress and egress for the purpose of purchasing alcoholic beverages at retail; provided, that any liquor store adjoining the lobby or a hotel or motel may maintain an additional entrance into such lobby as long as such lobby is open to the public.

(3) No retail stores shall be in closer proximity to any school (public or private) or any church than three hundred feet (300') as measured in a straight line from the nearest corner of said retail store to the nearest corner of said aforementioned institutions or facilities.

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

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

(6) All liquor stores shall be a permanent type of construction in a material and design. No liquor store shall be located in a manufactured or other movable pre-fabricated type of building. All liquor stores shall have night lights surrounding the outside of the premises in accordance with the Lakeland Land Development Regulations and shall be equipped with a functioning burglar alarm system on the inside of the premises. The square footage of the liquor store display area shall be a minimum of one thousand (1,000) square feet. All liquor stores shall be subject to the applicable zoning, land use building and safety regulations as adopted within the City of Lakeland Municipal Code, unless specifically stated otherwise herein. (as added by Ord. #16-242, June 2016)

8-306. Retail liquor license. (1) Qualifications of applicant. To be eligible to apply for or to receive a retail liquor license in the City of Lakeland, Tennessee, an application must satisfy all of the requirements of the state statutes and of the state rules and regulations for a holder of a state liquor retailer's license.

(2) 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. 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.

(3) Nature of license: suspension or revocation. The issuance of a license does not vest a property right in the license but is a privilege subject to

revocation or suspension by the Tennessee Alcoholic Beverage Commission. The mayor shall have the authority to report to the commission any violation of this chapter by the licensee or by any person for whose acts the licensee is responsible.

(4) Display. The licensee shall display and post, and keep displayed and posted his license in a conspicuous place in the licensee's liquor store at all times when an activity or business authorized hereunder is being done by the licensee.

(5) Number of licenses. There shall be a limit of one (1) license issued and outstanding in the city for every five thousand (5,000) residents. Regardless of Lakeland's population, there shall be no more than three (3) total licenses or package stores in Lakeland's municipal limits.

(6) Transfer. A licensee shall not sell, assign, or transfer his license or any interest therein to any other person without a certificate of compliance by the board. Provided, however, licensees who are serving in the military forces of the United States in time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section. In any case where a licensee is an individual and the individual dies or becomes incapacitated during the term of the license, upon proper application to the city council and upon compliance with all regulations hereunder and all applicable laws of the state or regulations of the alcoholic beverage commission of the state, the widow or duly qualified and appointed personal representative or guardian or conservator of said licensee may be issued a license for said retail establishment for the duration for the term of the original licensee's license. If a partnership, the surviving partner may do likewise, having said license issued to him as an individual.

(7) Miscellaneous restrictions upon licensees and their employees.

(a) No retailer's license shall be issued to a person who is a holder of a public office, either appointed or elected, or who is a public employee, either national, state, city or county. It shall be unlawful for any such person to have any such interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage or lien, or to participate in the profits of any such business. The foregoing shall not apply to uncompensated appointees to municipal boards and commissions where the boards or commission on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages.

(b) No retailer shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the legal entity to which he is connected shall receive a license; provided, that this provision shall not apply to any person who has been

so convicted, but whose rights of citizenship have been restored or judgment of infamy has been, removed by a court of competent jurisdiction; and in the case of any such conviction occurring after a license has been issued and received, the license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

(c) No license shall, under any condition, be issued to any person who within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of the state or of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing or otherwise handling intoxicating liquors or who has, during such period, been engaged in business alone or with others, in violation of any such laws or rules and regulations promulgated pursuant thereto, or as they existed or may exist thereafter.

(d) No manufacturer, brewer or wholesaler shall have any interest in the licensee's rental, occupancy or revenues.

(e) It shall be unlawful for any person to have ownership or to participate, either directly or indirectly, in the profits of any retail business licensed, unless his interest in such business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall be fully disclosed to the state alcoholic beverage commission and approved by it. Where such interest is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signed or prepared the application or whether the same is prepared by another; or if such interest is acquired after the issuance of the license, the burden of such disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

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

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

have been restored or judgment of infamy has been removed by a court of competent jurisdiction.

(h) No licensee shall employ any canvasser, agent, solicitor or representative otherwise for the purpose of receiving an order from a consumer of any alcoholic beverages at the residences or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of any order from any licensed retailer at the licensed premises.

(i) The issuance of a license does not vest a property right in the licensee, but is a privilege subject to revocation or suspension under this chapter. (as added by Ord. #16-242, June 2016)

8-307. Consideration. In issuing the initial certificates of compliance sufficient for the licensing of up to three (3) liquor stores in the city, the city will accept all completed applications on a first come, first serve basis. (as added by Ord. #16-242, June 2016)

8-308. Inspection fee. (1) Levied. The City of Lakeland 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. The City of Lakeland also imposes an inspection fee in the maximum amount allowed by state law on all wine sold in retail food stores. This inspection fee has no application to restaurants serving alcoholic beverages.

(2) Invoices. (a) It shall be unlawful for any wholesaler to supply, ship or otherwise deliver any alcoholic beverages to a licensee, and it shall be unlawful for any licensee to receive any alcoholic beverage, unless there shall be issued and delivered to the licensee by the wholesaler, currently with each such shipment or delivery, an invoice showing:

- (i) The date of the transaction;
- (ii) The name and address of the wholesaler and of the licensee;
- (iii) The brand name and quantity of alcoholic beverage covered by the invoice; and
- (iv) The unit wholesale price and the gross wholesale price for each item listed thereon.

(b) The wholesaler's invoice shall be issued and delivered to the licensee as hereinabove provided without regard to the terms of payment of the invoice so as to include all such transactions whether for cash or on credit or partly for cash and partly on credit.

(3) Form for reports: rules and regulations. The city manager shall prepare and make available to each wholesaler or other source vending alcoholic beverages to licensees sufficient forms for the monthly report of inspection fees payable by each licensee making purchases from such wholesaler or other source; and the city manager is authorized to promulgate reasonable rules and regulations to facilitate the reporting and collection of inspection fees and to specify the records of such sales and fees to be kept by each wholesaler or other vending source.

(4) Collection. Collection of the inspection fee levied herein shall be made by the wholesalers or other source, vending to the licensee at the time the sale is made to the licensee, and in such case payment of the inspection fee by such collecting wholesaler or other source shall be made to the city manager on or before the fifteenth (15th) day of each calendar month. Nothing herein shall relieve the licensee of the obligation of the payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee is made to the city manager on or before the fifteenth (15th) day of each calendar month.

(5) Effect of failure to report and pay. The failure to pay the inspection fee and to make the required reports accurately and within the time prescribed in this chapter shall be reported by the mayor to the Tennessee Alcoholic Beverage Commission as a violation of this chapter.

(6) Use of funds. All funds derived from the inspection fees imposed herein shall be paid into the general fund of the city. The city shall defray all expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the city in investigating and inspecting licensees and applicants and in seeing that all provisions of this chapter are observed; the board finds and declares that the amount of those inspection fees is reasonable and that the funds expected to be derived from these inspection fees will be reasonably required for said purposes.

(7) Supplemental nature. The inspection fee levied herein shall be in addition to any general gross receipts, sales or other general taxes applicable to the sale of alcoholic beverages and shall not be a substitute for such taxes.

(8) Inspections. The city manager or the city manager's authorized representative is authorized to examine the books, papers, and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The city manager or the city manager's authorized representative is authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers and records of a licensee, or the inspection and examination of the premises of a liquor store shall be unlawful. The city manager or the city manager's authorized representative shall forthwith report such violation to the state alcoholic beverage commission with the request that appropriate action be taken against the offending licensee. (as added by Ord. #16-242, June 2016)

8-309. Operational rules and regulations. (1) Records to be kept by licensee. In addition to any records specified in the rules and regulations promulgated by the city manager pursuant to this chapter, each licensee shall keep on file at such licensee's liquor store the following records:

(a) Original invoices required herein for all alcoholic beverages bought by or otherwise supplied to the licensee;

(b) The original receipts for any alcoholic beverages returned by such licensee to any wholesaler; and

(c) An accurate record of all alcoholic beverages lost, stolen, damaged, given away, or disposed of other than by sale, and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverages involved, and, where known, the name of the person or persons receiving the same.

(d) All such records shall be preserved for a period of at least two (2) years unless the city manager gives the licensee written permission to dispose of such records at an earlier time.

(2) Hours and days of operation. No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on Christmas Day, on Thanksgiving Day, on New Year's Day, on Labor Day, on the 4th of July or on any Sunday. On other days, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before 8:00 A.M. or after 11:00 P.M.

(3) Management. Each liquor store licensed hereunder shall be personally and actively managed by the holder of the license, if the licensee is an individual, or by a partner or corporate officer, if the licensee is a partnership or corporation. In every case where alcoholic beverage is sold by a licensee that is either a partnership or a corporation, the name and address of the managing partner or the corporate officer who will be in active control and management of the liquor store shall be designated in the application, and any future changes in such shall be reported forthwith in writing to the city manager.

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

(5) No retailer shall sell, lend, or give away any alcoholic beverages to a person under twenty-one (21) years of age. It shall be the responsibility of the retailer, or his agents or employees, or ascertaining the age of any persons hereunder and, in the absence of false representations by any person under the age of twenty-one (21) years, reasonable relied upon by said retailer, his agent or employees, and any selling, lending, or giving away to persons under twenty-one (21) years of age shall be a violation of this section. (as added by Ord. #16-242, June 2016)

8-310. Advertising. Any outdoor sign, advertisement or display shall comply with Lakeland's sign ordinance. (as added by Ord. #16-242, June 2016)

8-311. Violations. Any person violating any provision of this chapter shall be guilty of an offense, and shall be fined a minimum of ten dollars (\$10.00) and a maximum of fifty dollars (\$50.00) for each such violation. Any licensee violating any provision of this chapter shall be subject to having his license suspended or revoked for such violation as provided in this chapter, or by the state statutes, or by the state rule and regulations. Whenever any person licensed hereunder fails to account for or pay over to the city manager any license fee or inspection fee, the city manager shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such license or inspection fee. (as added by Ord. #16-242, June 2016)

CHAPTER 4

CONSUMPTION ON PREMISES (LIQUOR BY THE DRINK)

SECTION

8-401. Consumption of alcoholic beverages on premises.

8-402. Levy of tax; amounts.

8-401. Consumption of alcoholic beverages on premises. (1) As specified and legalized under the provisions of Tennessee Code Annotated, § 57-4-101, it shall hereafter be lawful to sell intoxicating liquors to be consumed on any premises permitted under Tennessee Code Annotated, § 57-4-101 meeting the requirements set out in this division, within the boundaries of the city.

(2) Notwithstanding § 8-401(1) of the Lakeland Municipal Code, it shall be unlawful for any person to be in possession of, or to consume, any beverage with alcoholic content in any of the public parks or areas under the jurisdiction of the parks and recreation board, except as allowed by special permit issued by the Lakeland Board of Commissioners. (as added by Ord. #16-242, June 2016)

8-402. Levy of privilege tax; amounts. (1) Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301(b)(2), there is hereby levied a privilege tax upon any person, firm corporation, joint stock company, or association engaging in the business of selling at retail in the city, intoxicating liquors for consumption on the premises. For the exercise of such privilege, the privilege taxes levied for engaging in engaging in the business of selling at retail in the city, intoxicating liquors for consumption on the premises shall be set at the maximum amount allowed by state law which is currently equal to the applicable July 2003 amounts found in Tennessee Code Annotated, § 57-4-301(b)(1), and shall be paid annually and used for general municipal purposes. Annual privilege tax payments shall be remitted to the city not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license.

(2) Any person selling intoxicating liquors for consumption on the premises shall, before commencing business, pay the privilege tax to the city and obtain a receipt thereof, and at all times display the receipt to any officer or agent of the city charged with enforcement of this division. (as added by Ord. #16-242, June 2016)

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

1. MISCELLANEOUS.
2. ITINERANT VENDORS AND PEDDLERS.
3. CHARITABLE SOLICITORS.
4. CABLE TELEVISION.
5. SEXUALLY ORIENTED BUSINESSES.

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

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

9-101. "Going out of business" sales. It shall be unlawful for any person falsely to 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 sixty (60) days he shall prima facie be deemed to have violated this section. (1989 Code, § 5-101, modified)

¹Municipal code references

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2

ITINERANT VENDORS AND PEDDLERS

SECTION

9-201. Selling - registration required.

9-202. Panhandling prohibited.

9-203. Exceptions.

9-201. Selling - registration required. It shall be unlawful anywhere in the City of Lakeland, Tennessee, for any person, peddler, huckster, hawker or transient vendor to sell or offer for sale any goods, wares, services or merchandise of any nature prior to applying for and receiving a valid permit from the City of Lakeland.

(1) The City of Lakeland may create and maintain a "do-not-knock" list allowing any owner or occupier of any residence within Lakeland to prohibit commercial solicitation at his or her residence by registering his or her address with the city.

(2) If Lakeland establishes a "do-not-knock" list, the city shall maintain and publish the list on its website and make a copy available at city hall during regular business hours.

(3) Upon issuing a permit, Lakeland shall provide a copy of the list to each person, peddler, huckster, hawker or transient vendor.

(4) Any person, peddler, huckster, hawker or transient vendor found to violate the "do-not-knock" list by offering to sell any goods, wares, services or merchandise of any nature at a residence on "do-not-knock" list shall be subject to a fifty dollar (\$50.00) fine per violation. (1989 Code, § 5-201, as replaced by Ord. #06-88, June 2006, and Ord. #15-229, Nov. 2015)

9-202. Panhandling prohibited. It shall be unlawful anywhere in the City of Lakeland, Tennessee to stop a vehicle or approach a stopped vehicle on a public street or roadway and ask for donations of any kind or sell any product standing on said street, roadway, sidewalk or median. (1989 Code, § 5-202, as replaced by Ord. #06-88, June 2006)

9-203. Exceptions. (1) The provisions of this chapter shall not apply bona fide merchants who deliver goods in the regular course of business.

(2) Solicitors for charitable, non-profit or religious organizations who go from dwelling to dwelling, business to business, street to street, taking or attempting to take orders for goods, wares and merchandise are exempt from these provisions, provided a Lakeland permit is obtained, a picture identification is worn at all times and the organization meets the Internal Revenue Service criteria to qualify as a charitable, non-profit or religious organization.

(3) The dispensing of religious pamphlets or other literature which is protected by the United States Constitution under Freedom of Speech, Religion or Press is exempt from this chapter.

(4) Campaigning for public office is exempt from this chapter. (1989 Code, § 5-203, as replaced by Ord. #06-88, June 2006)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

9-301. Commercial door-to-door solicitation - permit required.

9-302. Prerequisites for a permit.

9-303. Denial of a permit.

9-304. Exhibition of permit.

9-301. Commercial door-to-door solicitation - permit required. No person shall engage in door-to-door commercial solicitation within Lakeland between the hours of 6:30 P.M. and 9:30 A.M. No person shall engage in door-to-door commercial solicitation within Lakeland without first obtaining a permit and identification badge from the city manager and paying all applicable fees. Any business applying for a permit shall submit all required information for each person engaging in commercial door-to-door solicitation on its behalf. Upon issuance of a permit, Lakeland shall issue identification badge(s) for each person authorized to solicit under said permit. Each person engaged in commercial door-to-door solicitation shall prominently display his or her identification badge while soliciting in Lakeland.

(1) Each person applying for a door-to-door commercial solicitation permit shall file with the city manager an application on a form supplied by the city manager stating the following:

(a) His or her full name, business address, business telephone number, and email address, and website;

(b) Proof that the applicant has all applicable local and state business licenses;

(c) Information regarding the business as required by the city manager, including the business' federal tax identification number, its legal status and proof of registration with, or a certificate of good standing from the Tennessee Secretary of State, and its registered agent;

(d) A complete list of all persons who will be authorized to solicit under the permit and all supervising staff;

(e) The following information for each person authorized to solicit under a permit and all supervising staff:

(i) Full name, address, telephone number, email address, date of birth, and social security number;

(ii) A copy of the individual's driver's license, state identification card, passport, or other government-issued identification card;

(iii) Any other identifying information as may be required by the city manager.

(f) A brief explanation of the nature of the solicitation including what is being sold or offered for sale to the residents of Lakeland;

(g) any other information determined to be relevant by the city manager.

(2) Each applicant shall pay a fee in an amount sufficient to defray the costs incurred by Lakeland in processing the application, plus an additional fee to defray the actual costs of preparing and issuing an identification badge for each person to be authorized to solicit under the permit. The fees shall be set by resolution of the mayor and board of commissioners, and said fees may from time to time be adjusted in like manner to reflect any change in preparation and issuance costs.

(3) Each permit shall be valid for two (2) weeks from the date of issuance. Any permit holder wishing to renew a permit shall apply for the renewal no less than three (3) business days from expiration. The cost of the renewal shall be set by the city manager and shall be sufficient to defray the costs incurred by Lakeland in processing the renewal.

(4) The city manager shall deny an application for a permit or renewal of a permit if the city manager determines that the applicant has failed to comply with the do-not-knock ordinance, made any material misrepresentation or false statement in the application, failed to obtain proper business license(s) as required by law, or has been convicted of a felony or Class I misdemeanor under the laws of the State of Tennessee or an equivalent offense under any federal, state, county or municipal law. The city manager may revoke a permit if the applicant, or any person soliciting under a permit, fails to comply with the do-not-knock ordinance. (1989 Code, § 5-301, as replaced by Ord. #16-244, Sept. 2016)

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

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1989 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of commissioners if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1989 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any city official, policeman, or person solicited. (1989 Code, § 5-304)

CHAPTER 4**CABLE TELEVISION****SECTION**

9-401. To be furnished under franchise.

9-401. To be furnished under franchise. Cable television shall be furnished to the City of Lakeland and its inhabitants under a non-exclusive franchise granted to Time Warner Communications by the board of commissioners of the City of Lakeland, Tennessee dated Oct. 1997. The rights, powers, duties and obligations of the City of Lakeland and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon, the parties concerned.¹ (1989 Code, § 13-201, modified)

¹Complete details relating to the cable television franchise agreement are available in the office of the city recorder.

CHAPTER 5

SEXUALLY ORIENTED BUSINESSES

SECTION

- 9-501. Purpose and findings.
- 9-502. Definitions.
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- 9-504. License required.
- 9-505. Issuance of license.
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- 9-511. Hearing; denial, revocation, and suspension; appeal.
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- 9-513. Hours of operation.
- 9-514. Regulations pertaining to exhibition of sexually explicit films or videos.
- 9-515. Loitering, exterior lighting, visibility, and monitoring requirements.
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- 9-517. Applicability of ordinance to existing businesses.
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- 9-519. Scierer required to prove violation or business licensee liability.
- 9-520. Failure of city to meet deadline not to risk applicant/licensee rights.
- 5-521. Location of sexually oriented businesses.

9-501. Purpose and findings. (1) Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, moral, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance 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 ordinance to condone or legitimize the distribution of obscene material.

(2) Findings and rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the board, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4*,

L.L.C., 124 S.Ct. 2219 (June 7, 2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); and *DLS Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Brandywine, Inc. v. City of Richmond*, 359 F.3d 830 (6th Cir. 2004); *Currence v. City of Cincinnati*, 2002 U.S. App. LEXIS 1258; *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F.Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Center for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *Déjà vu v. Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Bamon Corp. v. City of Dayton*, 7923 F.2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Déjà vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 274 F.3d 377 (6th Cir. 2001); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Threesome Entertainment v. Strittmather*, 4 F.Supp.2d 710 (N.D. Ohio 1998); *Bigg Wolf Discount Video Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Kentucky Restaurant Concepts, Inc. v. City of Louisville and Jefferson County*, 209 F.Supp.2d 672 (W.D. Ky. 2002); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *Restaurant Ventures v. Lexington-Fayette Urban County Gov't*, 60 S.W.3d 572 (Ct. App. Ky. 2001); *Ctr. for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *Deja Vu of Cincinnati, L.L.C. v. Union Township Bd. Of Trustees*, 411 F.3d 777 (6th Cir. 2005) (en banc); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *State ex rel. Nasal v. BJS No. 2, Inc.*, 127 Ohio Misc. 2d 101 (Ct. Comm. Pleas 2003); *In re Tennessee Public Indecency Statute*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Currence v. City of Cincinnati*, 2002 U.S. App. LEXIS 1258); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Minneapolis, Minnesota - 1980; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the board finds:

(a) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

(b) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(c) Each of the foregoing negative secondary effects constitutes a harm which the city has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the city's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the city's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the city. The city finds that the cases and documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects. (as added by Ord. #06-85, Feb. 2006)

9-502. Definitions. For purposes of this chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

(1) "Adult bookstore or adult video store" means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas."

A principal business activity of offering one or more of the foregoing enumerated items exists if the establishment:

(a) Has a substantial portion of its displayed merchandise which consists of said items, or

(b) Has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or

(c) Has a substantial portion of the retail value of its displayed merchandise which consists of said items, or

(d) Derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items, or

(e) Maintains a substantial section of its interior business space for the sale or rental of said items; or

(f) Maintains an "adult arcade," which 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 regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or specified "anatomical areas."

(2) "Adult cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

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

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

(b) Offers a sleeping room for rent for a period of time that is less than 10 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 10 hours.

(4) "Adult motion picture theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.

(5) "Board" means the Board of Commissioners of Lakeland, Tennessee.

(6) "Characterized by" means describing the essential character or quality of an item. As applied in this ordinance, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

(7) "City" means the City of Lakeland, Tennessee.

(8) "Employ, employee, and employment" describe and pertain to any person who performs any service on the premises of a sexually oriented

business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

(9) "Establish or establishment" shall mean and include 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; or

(c) The addition of any sexually oriented business to any other existing sexually oriented business.

(10) "Hearing officer" shall mean an attorney, not an employee of the city, who is licensed to practice law in Tennessee.

(11) "Influential interest" means any of the following:

(a) The actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business,

(b) Ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or

(c) Holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

(12) "Licensee" shall mean a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In case of an "employee," it shall mean the person in whose name the sexually oriented business employee license has been issued.

(13) "Nudity or a state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

(14) "Operate or cause to operate" shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

(15) "Person" shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

(16) "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 § 9-504 of this ordinance.

(17) "Regularly" means and refers to the consistent and repeated doing of the act so described.

(18) "Semi-nude or state of semi-nudity" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

(19) "Semi-nude model studio" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

(a) By a college, junior college, or university supported entirely or partly by taxation;

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

(c) In a structure:

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

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

(20) "Sexual device" means any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

(21) "Sexual device shop" means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor

shall this definition be construed to include commercial establishments which do not restrict access to their premises by reason of age.

(22) "Sexual encounter center" shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.

(23) "Sexually oriented business" means an "adult bookstore or adult video store," an "adult cabaret," an "adult motel," an "adult motion picture theater," a "semi-nude model studio," "sexual device shop," or a "sexual encounter center."

(24) "Specified anatomical areas" means and includes:

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

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

(25) "Specified criminal activity" means:

(a) Any of the following specified crimes for which less than five years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

(i) Rape, sexual assault, public indecency, statutory rape, rape of a child, sexual exploitation of a minor, indecent exposure;

(ii) Prostitution, patronizing prostitution, promoting prostitution;

(iii) Obscenity;

(iv) Dealing in controlled substances;

(v) Racketeering, tax evasion, money laundering;

(b) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or

(c) Any offense in another jurisdiction that, had the predicate act(s) been committed in Tennessee, would have constituted any of the foregoing offenses.

(26) "Specified sexual activity" means any of the following:

(a) Intercourse, oral copulation, masturbation or sodomy; or

(b) Excretory functions as a part of or in connection with any of the activities described in (a) above.

(27) "Substantial" means at least thirty-five percent (35%) of the item(s) so modified.

(28) "Transfer of ownership or control" of a sexually oriented business shall mean any of the following:

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

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

(c) The establishment of a trust, gift, or other similar legal device which 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.

(29) "Viewing room" shall mean the room, booth, or area where a patron of sexually oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction. (as added by Ord. #06-85, Feb. 2006).

9-503. Classifications. The classifications for sexually oriented businesses shall be as follows:

- (1) Adult bookstore or adult video store;
- (2) Adult cabaret;
- (3) Adult motel;
- (4) Adult motion picture theater;
- (5) Semi-nude model studio;
- (6) Sexual device shop;
- (7) Sexual encounter center. (as added by Ord. #06-85, Feb. 2006)

9-504. License required. (1) It shall be unlawful for any person to operate a sexually oriented business in the City of Lakeland without a valid sexually oriented business license.

(2) It shall be unlawful for any person to be an "employee," as defined in this Chapter, of a sexually oriented business in the City of Lakeland without a valid sexually oriented business employee license.

(3) An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at city hall completed application made on a form provided by the city. Only one applicant for a business need appear in person. The application shall be signed as required by subsection (5) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in paragraphs (a) through (g) below, accompanied by the appropriate fee identified in § 9-506.

(a) The applicant's full true name and any other names used by the applicants in the preceding five (5) years.

(b) Current business address or another mailing address of the applicant.

(c) Written proof of age, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.

(d) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.

(e) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.

(f) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this ordinance, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.

(g) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

- (i) Been declared by a court of law to be a nuisance; or
- (ii) Been subject to a court order of closure or padlocking.

The information provided pursuant to paragraphs (a) through (g) of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the city within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(4) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with § 9-514 and 9-518 of this chapter shall submit a diagram indicating that the interior configuration meets the requirements of those sections.

(5) If a person who wishes to operate a sexually oriented business is an individual, he shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each person with an influential interest in the business shall sign the application for a license as applicant. Each applicant must be qualified under § 9-505 and each applicant shall be considered a licensee if a license is granted.

(6) The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the office of the city on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by court order. (as added by Ord. #06-85, Feb. 2006)

9-505. Issuance of license. (1) Upon the filing of a completed application under § 9-504(3) for a sexually oriented business license, the city

shall immediately issue a temporary license if the completed application is from a business that is seeking renewal of a current license that was previously issued under this ordinance. The temporary license shall expire upon the final decision of the city to deny or grant an annual license. Within twenty (20) days of the filing date of a completed sexually oriented business license application, the city shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The city shall issue a license unless:

- (a) An applicant is less than eighteen (18) years of age.
- (b) An applicant has failed to provide information as required by § 9-504 for issuance of a license or has falsely answered a question or request for information on the application form.
- (c) The license application fee required by this chapter has not been paid.
- (d) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this chapter or is not in compliance with locational requirements of this ordinance or the locational requirements of any other part of the Lakeland code.
- (e) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - (i) Been declared by a court of law to be a nuisance; or
 - (ii) Been subject to an order of closure or padlocking.
- (f) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this ordinance.

(2) Upon the filing of a completed application under § 9-504(3) for a sexually oriented business employee license, the city shall immediately issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the city to deny or grant an annual license. Within twenty (20) days of the filing date of a completed sexually oriented business employee license application, the city shall either issue a license or issue a written notice of intent to deny a license to the applicant. The city shall approve the issuance of a license unless:

- (a) The applicant is less than eighteen (18) years of age.
- (b) The applicant has failed to provide information as required by § 9-504 for issuance of a license or has falsely answered a question or request for information on the application form.
- (c) The license application fee required by this chapter has not been paid.
- (d) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - (i) Been declared by a court of law to be a nuisance; or
 - (ii) Been subject to an order of closure or padlocking.

(e) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this ordinance.

(3) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing. (as added by Ord. #06-85, Feb. 2006)

9-506. Fees. (1) The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: one hundred dollars (\$100) for the initial fee for a sexually oriented business license and fifty dollars (\$50) for annual renewal; fifty dollars (\$50) for the initial sexually oriented business employee license and twenty-five dollars (\$25) for annual renewal. (as added by Ord. #06-85, Feb. 2006)

9-507. Inspection. (1) Sexually oriented businesses and sexually oriented business employees shall permit the city and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize a harassing or excessive pattern of inspections.

(2) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation. (as added by Ord. #06-85, Feb. 2006)

9-508. Expiration of license. (1) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in § 9-504 and § 9-506.

(2) Application for renewal should be made pursuant to the procedures set forth in § 9-504 at least ninety (90) days before the expiration date, and when made less than ninety (90) days before the expiration date, the expiration of the license will not be affected. (as added by Ord. #06-85, Feb. 2006)

9-509. Suspension. (1) The city shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed thirty

(30) days if the sexually oriented business licensee has knowingly violated this chapter or has knowingly allowed an employee to violate this chapter.

(2) The city shall issue a written letter of intent to suspend a sexually oriented business employee license if the employee has knowingly violated this chapter. (as added by Ord. #06-85, Feb. 2006)

9-510. Revocation. (1) The city shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly violates this chapter or has knowingly allowed an employee to violate this chapter and the licensee's license has been suspended within the previous twelve-month (12-mo.) period.

(2) The city shall issue written intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:

(a) The licensee has knowingly given false information in the application for the sexually oriented business license.

(b) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises;

(c) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises;

(d) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked; or

(e) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the licensed premises.

(3) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

(4) When, after the notice and hearing procedure described in § 9-511, the board revokes a license, the revocation shall continue for one (1) years and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one (1) year from the date revocation becomes effective. (as added by Ord. #06-85, Feb. 2006)

9-511. Hearing; denial, revocation, and suspension; appeal. (1) When the city issues a written notice of intent to deny, suspend, or revoke a license, the city shall immediately send such notice, which shall include the specific grounds under this ordinance for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the city for the respondent. The notice shall specify a date, not less than ten (10) days nor more than twenty (20) days after the date the notice is issued, on which

the hearing officer shall conduct a hearing on the city's intent to deny, suspend, or revoke the license.

At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the city's witnesses. The city shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a written decision, including specific reasons for the decision pursuant to this ordinance, to the respondent within five (5) days after the hearing.

If the decision is to deny, suspend, or revoke the license, the decision shall not become effective until the thirtieth (30th) day after it is rendered, and the decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the hearing officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the hearing officer shall, contemporaneously with the issuance of the decision, order the city to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the city shall contemporaneously therewith issue the license to the applicant.

(2) If any court action challenging the hearing officer's decision is initiated, the board shall prepare and transmit to the court a transcript of the hearing within ten (10) days after receiving written notice of the filing of the court action. The city shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is in operation as of the effective date of this ordinance: Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the city's enforcement of the denial, suspension, or revocation, the city shall immediately issue the respondent a provisional license. The provisional license shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the city's enforcement. (as added by Ord. #06-85, Feb. 2006)

9-512. Transfer of license. A licensee shall not transfer his or 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 sexually oriented business license application. (as added by Ord. #06-85, Feb. 2006)

9-513. Hours of Operation. No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 A.M. on any day. (as added by Ord. #06-85, Feb. 2006)

9-514. Regulations pertaining to exhibition of sexually explicit films or 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 three hundred fifty (350) square feet of floor space, a film, video cassette, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

(a) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit 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 shall be oriented to the north or to some designated street or object and shall 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. The city may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to paragraph (a) of this subsection.

(c) The interior 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 (5.0) foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

(d) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.

(e) It shall be the duty of the operator to post conspicuous signs in well lighted entry areas of the business stating all of the following:

(i) That the occupancy of viewing rooms is limited to one person.

(ii) That sexual activity on the premises is prohibited.

(iii) That the making of openings between viewing rooms is prohibited.

(iv) That violators will be required to leave the premises.

(v) That violations of subparagraphs (i), (ii) and (iii) of this paragraph are unlawful.

(f) It shall be the duty of the operator to enforce the regulations articulated in (e)(i) through (iv) above.

(g) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(2) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty. (as added by Ord. #06-85, Feb. 2006)

9-515. Loitering, exterior lighting, visibility, and monitoring requirements. (1) It shall be the duty of the operator of a sexually oriented business to:

(a) Post conspicuous signs stating that no loitering is permitted on such property;

(b) Designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every ninety (90) minutes or inspecting such property by use of video cameras and monitors; and

(c) Provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras

and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

(2) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(3) No sexually oriented business shall erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right of way. (as added by Ord. #06-85, Feb. 2006)

9-516. Penalties and enforcement. (1) A person who knowingly disobeys, omits, neglects, or fails to comply with or resists the enforcement of any of the provisions of this section shall be guilty of a violation and, upon conviction, shall be punishable by a fine not to exceed fifty dollars (\$50.00). Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such. Each violation of this section shall be considered a separate offense, and any violation continuing more than one-half ($\frac{1}{2}$) hour or reoccurring within one-half ($\frac{1}{2}$) hour shall be considered a separate offense for each half-hour ($\frac{1}{2}$) of violation.

(2) The city's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this ordinance to prosecute, restrain, or correct violations hereof. Such proceedings, including injunction, shall be brought in the name of the city, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this ordinance, or any of the laws or ordinances in force in the city or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred. (as added by Ord. #06-85, Feb. 2006)

9-517. Applicability of ordinance to existing businesses. All sexually oriented businesses and sexually oriented business employees that are lawfully preexisting and operating on the effective date of this ordinance are hereby granted a De Facto temporary license to continue operation or employment for a period of thirty (30) days following the effective date of this ordinance. By the end of said thirty (30) days, all sexually oriented businesses and sexually oriented business employees must conform to and abide by the requirements of this chapter. (as added by Ord. #06-85, Feb. 2006)

9-518. Prohibited conduct. It is unlawful for a sexually oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations.

(1) It shall be a violation of this ordinance for a patron, employee, or any other person to knowingly or intentionally, in a sexually oriented business,

appear in a state of nudity, regardless of whether such public nudity is expressive in nature.

(2) It shall be a violation of this ordinance for a person to knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from any patron or customer and on a stage at least eighteen (18) inches from the floor in a room of at least one thousand (1,000) square feet.

(3) It shall be a violation of this ordinance for any employee who regularly appears semi-nude in a sexually oriented business to knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.

(4) It shall be a violation of this ordinance for any person to sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

A sign in a form to be prescribed by the city, and summarizing the provisions of paragraphs (1), (2), (3), and (4) of this section, shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry. (as added by Ord. #06-85, Feb. 2006)

9-519. Scienter required to prove violation or business licensee liability. This ordinance does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this ordinance. Notwithstanding anything to the contrary, for the purposes of this ordinance, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this ordinance, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act. (as added by Ord. #06-85, Feb. 2006)

9-520. Failure of city to meet deadline not to risk applicant/licensee rights. In the event that a city official is required to take an act or do a thing pursuant to this ordinance within a prescribed time, and fails to take such act or do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the city official under this ordinance, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the city of an applicant or licensee's application for sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for the city's action has passed. (as added by Ord. #06-85, Feb. 2006)

9-521. Location of sexually oriented businesses. (1) A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district other than "I-L" Light industrial district, as drafted and described in article IV. sec. 1K, Zoning Ordinance of Lakeland, Tennessee.

(2) A person commits an offense if the person operates or causes to be operated a sexually oriented business within 750 feet of:

(a) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

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

(c) A boundary of any residential district as defined in, but not limited to, the following residential zoning classifications in article IV, Zoning Ordinance of Lakeland, Tennessee: (Ordinance 03-25, 2/6/03)

(i) E-R, Estate residential districts

(ii) R-R. Rural residential districts

(iii) R 1, Low density residential districts

(iv) R 2, Medium density residential districts

(v) M-R, Multi family residential districts

(vi) PD- Planned residential districts

(d) A residential "dwelling" as defined in article II. Definitions, Zoning Ordinance of Lakeland, Tennessee. (Ordinance 03-25, 2/6/03)

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

(f) The property line of a lot devoted to use as a "residence" as defined in article II. Definitions, Zoning Ordinance of Lakeland, Tennessee; or

(g) A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the state.

(3) A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

(4) For the purposes of subsections (2)(a), (2)(b), (2)(c), (2)(e), (2)(f), and (2)(g) of this section, 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 where a sexually oriented business is conducted, to the nearest property line of a district or of the premises of a use listed subsections (2)(a), (2)(b), (2)(c), (2)(e), (2)(f), or (2)(g). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section. For the purposes of subsection (2)(d) of this section, 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 where a sexually oriented business is conducted, to the closest exterior wall of the residential dwelling.

(5) For purposes of subsection (3) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(6) Any sexually oriented business lawfully operating on February 1, 1999 that is in violation of subsection (1), (2), or (3) of this section shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.

(7) A sexually oriented business lawfully in operation as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of a the sexually oriented business license, of a use listed in subsection (2) of this section within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked. (as added by Ord. #06-85, Feb. 2006)

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

1. IN GENERAL.
2. DOGS.
3. OWNERSHIP AND CONTROL OF VICIOUS DOGS.

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

- 10-101. Running at large prohibited.
- 10-102. Pen or enclosure to be kept clean.
- 10-103. Adequate food, water, and shelter, etc., to be provided.
- 10-104. Keeping in such manner as to become a nuisance prohibited.
- 10-105. Cruel treatment prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Inspections of premises.
- 10-108. Swamp fever (Coggin test) vaccination required.
- 10-109. Rabies vaccination and registration required.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. It shall be unlawful for any person knowingly to permit any dog or cat owned by him or under his control to run at large within the corporate limits.¹ (1989 Code, § 3-101)

10-102. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. It shall be unlawful for any person to own, keep, or harbor any dog or cat which does not wear a tag evidencing the vaccination and registration required by § 10-109 below. (1989 Code, § 3-102)

¹State law reference

Tennessee Code Annotated, §§ 44-8-108, 68-8-108, and 68-8-109.

10-103. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1989 Code, § 3-103)

10-104. Keeping in such manner as to become a nuisance prohibited. No animal, fowl or reptile shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1989 Code, § 3-104, modified)

10-105. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1989 Code, § 3-105)

10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the governing body. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound or shelter costs, or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of commissioners.

The animal shelter shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of commissioners, to cover the costs of impoundment and maintenance. (1989 Code, § 3-106, modified)

10-107. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this chapter, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1989 Code, § 3-107)

10-108. Swamp fever (Coggins test) vaccination required. It shall be unlawful for any person to own, keep, or harbor any pony, horse, or other member of the horse family without having the same vaccinated against swamp

fever (Coggins test), and maintaining written evidence of the same. (1989 Code, § 3-108, modified)

10-109. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 to 68-8-114). (1989 Code, § 3-109)

CHAPTER 2**DOGS****SECTION**

10-201. Shelby County Ordinance 82 (as amended) effective within the city.

10-202. Maintenance of Ordinance 82.

10-201. Shelby County Ordinance 82 (as amended) effective within the city. Said ordinance 82, hereinafter referred to as the "Shelby County Animal Control Ordinance", and the provisions contained therein shall also be effective within the corporate limits of the City of Lakeland and shall be enforced by the appropriate Memphis/Shelby County departments, divisions, and/or agencies concerned. Such enforcement being subject to any existing and/or future agreements entered into between the respective entities involved. (1989 Code, § 3-201)

10-202. Maintenance of Ordinance 82. The city manager/city recorder shall maintain a current "Shelby County Animal Control Ordinance" in separate city files within city hall and shall make said ordinance available for public review during normal city hall office hours. (1989 Code, § 3-202)

CHAPTER 3**OWNERSHIP AND CONTROL OF VICIOUS DOGS****SECTION**

- 10-301. Definitions.
- 10-302. Procedure for declaring a dog vicious.
- 10-303. Notification of vicious dog declaration.
- 10-304. Hearing on vicious dog declaration.
- 10-305. Appeal from vicious dog declaration.
- 10-306. Requirements for keeping a vicious dog.
- 10-307. Impoundment.
- 10-308. Tranquilizer gun usage.
- 10-309. Notice of impoundment.
- 10-310. Hearing on impoundment and/or destruction.
- 10-311. Exceptions.
- 10-312. Change of status.
- 10-313. Change of ownership.
- 10-314. Guard dogs.
- 10-315. Dog fighting.
- 10-316. Right of entry.
- 10-317. Penalties.

10-301. Definitions. For the purpose of this chapter the following terms shall have the following meanings.

(1) “Guard dog” means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog.

(2) “Vicious dog” means:

(a) Any dog with a known propensity, tendency, or disposition to attack without provocation, to cause serious injury, or to otherwise threaten the safety of human beings or domestic animals; or

(b) Any dog which, without provocation, has attacked or bitten a human being or domestic animal; or

(c) Any dog owned or harbored primarily, or in part, for the purpose of dog fighting or any dog trained for dog fighting.

(as added by Ord. #07-107, Aug. 2007)

10-302. Procedure for declaring a dog vicious. (1) An animal control officer, police officer or any adult person may request under oath that a dog be classified as vicious as defined in § 10-301 by submitting a sworn, written complaint. Upon receipt of such complaint, the city manager shall notify the owner of the dog, in writing, that a complaint has been filed and that an investigation into the allegations as set forth in the complaint will be conducted.

(2) At the conclusion of an investigation, the city manager may:

(a) Determine that the dog is not vicious and, if the dog is impounded, waive any impoundment fees incurred and release the dog to its owner, or

(b) Determine that the dog is vicious and order the owner to comply with requirements for keeping a vicious dog set forth in § 10-306, and if the dog is impounded, release the dog to its owner after the owner has paid all fees incurred for impoundment.

(3) Nothing in this section shall be construed to require a dog to be declared vicious prior to taking action under state law. (as added by Ord. #07-107, Aug. 2007, and amended by Ord. #12-181, Oct. 2012)

10-303. Notification of vicious dog declaration. (1) Within five (5) days after declaring a dog vicious, the city manager shall notify the owner by certified mail or personal delivery of the dog's designation as a vicious dog and of the requirements for keeping a vicious dog as set forth in § 10-306. The city manager also notify the Shelby County Sheriff's Department of the designation of any dog as a vicious dog.

(2) The notice shall inform the owner that he or she may request, in writing, a hearing to contest the city manager's finding and designation within five (5) days after delivery of the vicious dog declaration notice. (as added by Ord. #07-107, Aug. 2007, as amended by Ord. #12-181, Oct. 2012)

10-304. Hearing on vicious dog declaration. The city manager shall hold a hearing within ten (10) days after receiving the owners written request for such a hearing. The city manager shall provide notice of the date, time and location of the hearing to the owner by certified mail or personal delivery and to the complainant by regular mail.

(2) At a hearing, all interested parties shall be given the opportunity to present evidence on the issue of the dog's viciousness. Criteria to be considered in the hearing shall include but not be limited to the following:

- (a) Provocation;
- (b) Severity of attack or to a person or animal;
- (c) Previous aggressive history of the dog;
- (d) Observable behavior of the dog;
- (e) Site and circumstances of the incident; and
- (f) Statements from interested parties.

(3) A determination at the hearing that the dog is in fact a vicious dog as defined in § 10-301 shall subject the dog and its owner to the requirements of this section.

(4) Failure of the owner to request a hearing shall result in the dog being finally declared a vicious dog and shall subject the dog and its owner to the requirements of this section. (as added by Ord. #07-107, Aug. 2007)

10-305. Appeal from vicious dog declaration. If the city manager determines that a dog is vicious at the conclusion of a hearing conducted under § 10-304, that decision shall be final unless the owner of the dog appeals the decision to circuit court. (as added by Ord. #07-107, Aug. 2007)

10-306. Requirements for keeping a vicious dog. The owner of a vicious dog shall be subject to the following requirements:

(1) Confinement. All vicious dogs shall be securely confined in doors or in an enclosed and locked pen or structure upon premises of the owner that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The pen or structure shall have minimum dimensions of five feet (5') in width and length by six feet (6') in height and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two feet (2'). All pens or structures must comply with Lakeland Municipal Code title 14, chapter 7, fences and walls and be kept clean and sanitary. The enclosure must provide shelter and protection from the elements and must provide adequate exercise room, light and ventilation. Under no circumstances may more than one (1) dog be kept in any one (1) pen or structure. The security arrangements must be approved by a veterinarian appointed by the city manager.

(2) Indoor confinement. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the structure on its own volition. In addition, no vicious dog may be kept in a house or structure when open windows or screen doors are the only obstacle preventing the dog from exiting the house or structure.

(3) Number of vicious dogs per residence. Only one (1) dog that has been declared vicious may reside per residence.

(4) Leash and muzzle. The owner of a vicious dog shall not allow the dog to go outside its kennel, pen, or structure unless the dog is muzzled, under the physical control of a capable adult, and restrained by a leash not more than four feet (4') in length, which shall be bright yellow in color, and of sufficient strength to control the dog. The muzzles must not cause injury to the dog or interfere with its vision or respiration but must prevent the dog from biting any human being or animal.

(5) Signs. The owner of a vicious dog shall display in a prominent place on the owners premises, clearly visible warning sign reading "Beware of Vicious Dog." The sign shall be legible from the driveway, entrance or street. The owner shall also display a sign with a symbol warning children of the presence of a vicious dog. Similar signs shall be posted on the dog's kennel, pen or structure. Each sign shall be at least twelve inches (12") by twelve inches (12") in size.

(6) Insurance. The owner of a vicious dog shall obtain public liability insurance of at least one hundred thousand dollars (\$100,000.00), per dog, insuring the owner for any damage or personal injury that may be caused by the

vicious dog. The policy shall contain a provision requiring the city to be notified immediately by the agent issuing the policy in the event that the policy is canceled, terminated or expired. The owner must provide proof of the insurance to the city manager. If there is a lapse in insurance or a cancellation, the owner shall be in violation of this chapter. (as added by Ord. #07-107, Aug. 2007, and amended by Ord. #12-181, Oct. 2012)

10-307. Impoundment. When a dog has severely attacked a human being or domesticated animal, and a police officer witnessed the attack or witnessed the injuries caused by the attack, such dog shall be impounded. (as added by Ord. #07-107, Aug. 2007)

10-308. Tranquilizer gun usage. Any law enforcement officer, that has met the training qualifications with tranquilizer gun usage, is allowed to use a tranquilizer gun to put any vicious animal down if the law enforcement officer deems it necessary in capturing the animal. (as added by Ord. #07-107, Aug. 2007)

10-309. Notice of impoundment. Within five (5) days of impoundment of a dog under § 10-307, the city manager shall notify the dog's owner, if known, in writing of the impoundment. (as added by Ord. #07-107, Aug. 2007)

10-310. Hearing on impoundment and/or destruction. (1) The owner of an impounded dog shall have the right to file, within five (5) days after receiving notice, a written request for a hearing before the city manager to contest the impoundment.

(2) Upon request by the owner for a hearing pursuant to subsection (1), a hearing shall be held within ten (10) days after the request for a hearing. Notice of the date, time and location of the hearing shall be provided by certified mail or delivered personally to the dog's owner.

(3) The city manager shall issue a decision after the close of the hearing and shall notify the owner in writing of the decision.

(4) After considering all of the relevant evidence, the city manager may request the district attorney general to petition the circuit court to order the destruction of the impounded dog, or may release the dog to its owner conditional on the owner complying with the requirements for keeping a vicious dog as set forth in § 10-306.

(5) If state law changes and permits a municipality to order the destruction of a dog as a result of an attack on a person or other animal, then the city manager shall automatically have the power to order the destruction of said dog under subsection (4) without going through circuit court. (as added by Ord. #07-107, Aug. 2007)

10-311. Exceptions. (1) This chapter shall not apply to any dog used by law enforcement agency.

(2) No dog shall be declared vicious for injury or damage sustained by a person who was entering the owner's property to commit a burglary, robbery, assault, willful trespass or other tort or crime.

(3) No dog shall be declared vicious for injury or damage sustained by person who was tormenting, abusing, assaulting, or otherwise provoking the dog.

(4) No dog shall be declared vicious solely because it bites or attacks:

(a) A person assaulting its owner, excluding a police officer attempting to subdue or effect the arrest of a suspect; or

(b) An unrestrained animal that attacks it or its young while it is restrained in compliance with this chapter. (as added by Ord. #07-107, Aug. 2007)

10-312. Change of status. The owner of a vicious dog shall notify the division of animal control:

(1) Immediately if the vicious dog is unconfined and on the loose, or has attacked a human being or domesticated animal without provocation; or

(2) If the dog has died. (as added by Ord. #07-107, Aug. 2007)

10-313. Change of ownership. (1) If the owner of a vicious dog sells, gives away or otherwise transfers custody of the vicious dog to a new owner who resides within the city limits the City of Lakeland, the owner shall, within three (3) days, provide the city manager with the name, address, and telephone number of the new owner.

(2) If the new owner resides within the city limits, the previous owner shall notify the new owner of the dog's designation as a vicious dog and of the requirements and conditions for keeping a vicious dog set forth in § 10-306.

(3) If the new owner resides within the city limits, the new owner must obtain the required enclosure prior to the acquisition of the vicious dog or confine the dog indoors.

(4) If the new owner resides within the city limits, the new owner must fully comply with the provisions of this chapter, including obtaining liability insurance, prior to the acquisition of the vicious dog. (as added by Ord. #07-107, Aug. 2007)

10-314. Guard dogs. It shall be unlawful any person to place or maintain guard dogs in any area of the City of Lakeland for the protection of persons or property unless the following provisions are met:

(1) The guard dog shall be confined, or

(2) The guard dog shall be under the absolute control of a handler at all times when not confined; and

(3) The owner or other person in control of the premises upon which a guard dog is maintained shall post warning signs stating that such a dog is on the premises. At least one (1) such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible from either the curb line or a distance of fifty feet (50'), whichever is lesser, and shall contain a telephone number where some person responsible for controlling such guard dog can be reached twenty-four (24) hours a day. (as added by Ord. #07-107, Aug. 2007)

10-315. Dog fighting. (1) No person shall possess, harbor, or maintain care or custody of any dog for the purpose of dog fighting, nor shall any person train, torment, badger, bait, or use any dog for the reason of causing or encouraging the dog to attack human beings or domesticated animals.

(2) No person shall permit a dog fight to take place upon their premises or premises within their control.

(3) No person shall knowingly be a spectator at a dog fight.

(4) Any dog found on the premises of the dog fight or in the immediate vicinity shall be impounded. (as added by Ord. #07-107, Aug. 2007)

10-316. Right of entry. It is the duty and authority of the Shelby County Sheriff or his authorized representative to enter onto any premises, public or private, to make inspections for the purpose of carrying out the provisions of this chapter. (as added by Ord. #07-107, Aug. 2007)

10-317. Penalties. Any person violating the provisions of this chapter upon conviction shall be fined fifty dollars (\$50.00) and each day of violation shall be deemed a separate violation. (as added by Ord. #07-107, Aug. 2007)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

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

CHAPTER 1

ALCOHOL²

SECTION

11-101. Minors in beer places.

11-101. Minors in beer places. No person under twenty-one (21) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises, except as may be provided by state law. (1989 Code, § 10-209, modified)

¹Municipal code references

Animals and fowls: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

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

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

11-201. Fortune telling, etc.

11-201. Fortune telling, etc. It shall be unlawful for any person to hold himself out to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1989 Code, § 10-218)

CHAPTER 3

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-301. Disturbing the peace.

11-302. Loud and disturbing noises prohibited.

11-303. Noise curfew imposed.

11-304. Violations.

11-301. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or boisterous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1989 Code, § 10-201)

11-302. Loud and disturbing noises prohibited. The creation of any unreasonably loud, disturbing, or unnecessary noise within the limits of the city is prohibited. Any noise of such character, intensity or duration as to be detrimental to the life, or health of any individual, or in disturbance of the public peace and welfare is prohibited. (1989 Code, § 10-217, as replaced by Ord. #05-80, Aug. 2005)

11-303. Noise curfew imposed. It shall be unlawful for any person, organization, corporation, group or agent or representative, invitee, or employee thereof to make any loud or disturbing noise within the limits of the city, at any time or place, so as to annoy or disturb the quiet, comfort or repose of any person in the vicinity. (as added by Ord. #05-80, Aug. 2005)

11-304. Violations. Any violation of the provisions of this chapter shall be punishable by a fine as provided by the Lakeland Municipal Code. (as added by Ord. #05-80, Aug. 2005)

CHAPTER 4

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-401. Escape from custody or confinement.

11-402. Impersonating a government officer or employee.

11-403. False emergency alarms.

11-404. Resisting or interfering with city personnel.

11-401. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1989 Code, § 10-202)

11-402. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1989 Code, § 10-204)

11-403. False emergency alarms. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1989 Code, § 10-208)

11-404. Resisting or interfering with city personnel. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the city while such officer or employee is performing or attempting to perform his city duties. (1989 Code, § 10-203)

CHAPTER 5

FIREARMS, WEAPONS AND MISSILES

SECTION

11-501. Discharge of firearms, etc.

11-502. Throwing of missiles.

11-503. Deleted.

11-501. Discharge of firearms, etc. (1) It shall be unlawful for any person to discharge a firearm and/or discharge a projectile by bow, air gun or other means in the City of Lakeland.

(2) As used in this section, the following words and phrases shall have the following meanings:

(a) "Firearms." Any weapon, whether loaded or unloaded, which will expel a projectile by the action of an explosive and includes but is not limited to any such weapon commonly referred to as a pistol, revolver, rifle, gun, shotgun, muzzleloader or machine gun. Any weapon that can be readily made into a firearm by the insertion of a firing pin, or other similar thing in the actual possession of the actor or an accomplice, is a firearm.

(b) "Bow." Any weapon, whether loaded or unloaded, which will expel a projectile by the action of a spring mechanism or other force-producing means or method and includes but is not limited to any such weapon commonly referred to as a bow, long bow, compound bow, crossbow or slingshot capable of discharging a metal bullet or pellet or paint filled projectile.

(c) "Air gun." Any weapon, whether loaded or unloaded, which will expel through the action of release of a pressurized gas, compressed air, expanding gas, explosive or other force-producing means or method and includes but is not limited to any such weapon commonly referred to as an air gun, air pistol, air rifle, "BB" gun, pellet gun, blow gun, paint gun.

(3) It shall not be a violation of this section to discharge a firearm or air gun under the following conditions:

(a) In the protection of life.

(b) Law enforcement officers in the performance of their official duties.

(c) At an established and lawfully operating firing range or related business establishment or educational program properly supervised.

(d) Military functions such as parades, funerals or the firing of blank charges.

(4) The provisions of this section shall not apply to the discharge of a firearm and/or discharge of a projectile by bow, air gun or other means upon a parcel of property and in a location that is:

- (a) Zoned AG under the City of Lakeland Zoning Ordinance, and
- (b) At least twenty (20) acres in size.

(5) The provisions of this section are severable. If any provision of this section or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application.

(6) Any person, firm or corporation violating any provision of this section shall be fined not less than twenty-five dollars (\$25.00) for each offense, and a separate offense shall be deemed committed by each discharge violating this section. (1989 Code, § 10-221, as replaced by Ord. #03-35, May 2003)

11-502. Throwing of missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, firecracker or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1989 Code, § 10-205)

11-503. Deleted. (1989 Code, § 10-222, as deleted by Ord. #03-35, May 2003)

CHAPTER 6

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

11-601. Trespassing.

11-602. Malicious mischief.

11-603. Interference with traffic.

11-601. 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 also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1989 Code, § 10-212)

11-602. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1989 Code, § 10-211)

11-603. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1989 Code, § 10-216)

CHAPTER 7

MISCELLANEOUS

SECTION

11-701. Abandoned refrigerators, etc.

11-702. Caves, wells, cisterns, etc.

11-703. Posting notices, etc.

11-704. Littering; misuse or damage of city's property or trash containers.

11-705. Killing deer.

11-706. Curfew for minors.

11-701. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1989 Code, § 10-210)

11-702. 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, abandoned septic tank, or other such opening in the ground which is dangerous to life and limb without placing thereon an adequate cover or safeguard, and in the case of abandoned septic tanks filling the same with material approved by the city. (1989 Code, § 10-215)

11-703. 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. (1989 Code, § 10-213)

11-704. Littering; misuse or damage of city's property or trash containers. (1) It shall be unlawful for any person to litter or deposit trash in the City of Lakeland streets and/or right of ways, drains, or easements.

(2) It shall be unlawful for any person using City of Lakeland parks or pavilion grounds to deposit trash or place litter outside of refuse containers provided.

(3) It shall be unlawful to dispose of or dump anything other than those items associated with the use of the park or pavilion in containers provided by the city.

(4) It shall be unlawful for any person to use a privately owned business establishments' owned or contracted dumpster for disposing of trash, garbage, refuse or litter without the express written consent of the business owner concerned. (1989 Code, § 10-219)

11-705. Killing deer.¹ It shall be unlawful for any person to trap, hunt, shoot, or injure or kill by any means, deer within the corporate limits, except by an official of the city or contractor who must cease additional pain and suffering by an animal in dire distress. (1989 Code, § 10-220, modified)

11-706. Curfew for minors. (1) It is unlawful for any minor between seventeen (17) and eighteen (18) years of age to remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the city during the following time frames:

(a) Monday through Thursday between the hours of 11:00 P.M. to 6:00 A.M.

(b) Friday through Sunday between the hours of 12:00 Midnight to 6:00 A.M.

(2) It is unlawful for any minor sixteen (16) years of age and under to remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the city during the following time frames:

(a) Monday through Thursday between the hours of 10:00 P.M. to 6:00 A.M.

(b) Friday through Sunday between the hours of 11:00 P.M. to 6:00 A.M.

(3) It is unlawful for a parent or guardian of a minor to knowingly permit or by inefficient control to allow such minor to be or remain upon any street or establishment under circumstances not constituting an exception to, or otherwise beyond the scope of subsections (1) and (2). The term "knowingly" includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. The term "knowingly" is intended to continue to keep neglectful or careless parents up to a reasonable community standard or parental responsibility through an objective test. It is not a defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor child.

(4) The following are valid exceptions to the operation of the curfew:

(a) At any time, if a minor is accompanied by such minor's parent or guardian;

(b) When accompanied by an adult authorized by a parent or guardian of such minor to take such parent or guardian's place in accompanying the minor for a designated period of time and purpose within a specified area;

(c) Until the hour of 12:30 A.M., if the minor is on an errand as directed by such minor's parent;

¹Municipal code reference
Animal control: title 10

(d) If the minor is legally employed, for the period from forty-five (45) minutes before to forty-five (45) minutes after work, while going directly between the minor's home and place of employment. This exception shall also apply if the minor is in a public place during the curfew hours in the course of the minor's employment. To come within this exception, the minor must be carrying written evidence of employment which is issued by the employer;

(e) Until the hour of 12:30 A.M. if the minor is on the property of or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto, if the owner of the adjacent building does not communicate an objection to the minor and the law enforcement officer;

(f) When returning home by a direct route from (and within thirty (30) minutes of the termination of) a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. This exception does not apply beyond 1:00 A.M.

(g) In the case of reasonable necessity, but only after such minor's parent has communicated to law enforcement personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a described purpose including place or origin and destination. A copy of such communication, or the record thereof, an appropriate notation of the time it was received and of the names and addresses of such parent or guardian and minor constitute evidence of qualification under this exception;

(h) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. A minor shall show evidence of the good faith of such exercise and provide notice to the city officials by first delivering to the appropriate law enforcement authority a written communication, signed by such minor, with the minor's home address and telephone number, addressed to the mayor of the county specifying when, and in what manner the minor will be on the streets at night during hours when the curfew is still otherwise applicable to the minor in the exercise of a First Amendment right specified in such communication; and

(i) When a minor is, with parental consent, in a motor vehicle engaged in good faith interstate travel.

Each of the foregoing exceptions, and the limitations are severable.

(5) When any child is in violation of this section, the apprehending officer shall act in one (1) of the following ways:

(a) In the case of a first violation, and if in the opinion of the officer such action would be effective, take the child to the child's home and warn and counsel the parents or guardians;

(b) Issue a summons to the child and/or parents or guardians to appear at the juvenile court; or

(c) Bring the child into the custody of the juvenile court for disposition.

(6)(a) A minor violating the provisions of this section shall commit an unruly act, the disposition of which shall be governed pursuant to Tennessee Code Annotated, title 37.

(b) Any parent, guardian, or other person having the care, custody and control of a minor violating the provisions of this section shall be guilty of a civil offense punishable under the general penalty provision of this municipal code. (Ord. #196, Feb. 1997)

TITLE 12

BUILDING, UTILITY, ETC. CODES¹

CHAPTER

1. APPLICABLE CODES.
2. PRE-CONSTRUCTION INSPECTIONS.
3. RETAINING WALLS.

CHAPTER 1

APPLICABLE CODES

SECTION

12-101. Shelby County codes effective within city.

12-101. Shelby County codes effective within city. The building, plumbing, electrical, mechanical, gas, and housing codes in effect in Shelby County shall also be effective within the corporate limits and shall be enforced by Shelby County personnel. (1989 Code, § 4-101, modified)

¹Municipal code reference

Fee schedule; building permits, etc.: appendix A.
Mobile home park regulations: title 14, chapter 5.

Ord. #08-122 "Manual for Public Works Construction and Material Specifications" is available in the office of the city recorder.

CHAPTER 2

PRE-CONSTRUCTION INSPECTIONS

SECTION

- 12-201. Title and purpose.
- 12-202. Inspection required.
- 12-203. Monetary deposit required.
- 12-204. Revocation of deposit.

12-201. Title and purpose. The purpose of this chapter is to protect the health, safety and welfare of the citizens of Lakeland by requiring builders and contractors to control erosion, silt, storm water run off, construction debris, trash and comply with various plat conditions required by the Lakeland Board of Commissioners, Municipal Planning Commission, Design Review Commission, and other city ordinances; preventing disruption of the life of residents within a subdivision development; and preserving the quality of the environment. (Ord. #189, Aug. 1996, as amended by Ord. #10-141, Jan. 2009)

12-202. Inspection required. Except as otherwise provided in this chapter, it shall be unlawful for any person to erect, construct, enlarge, move or convert any building, or initiate lot grading in the city or cause the same to be done, without first obtaining a pre-construction inspection and securing a permit from the appropriate city official. The following must be completed in order to receive a building permit:

- (1) Erosion control measures, tree fencing, and clearing limits must be in place and installed in accordance with Lakeland specifications and to the reasonable satisfaction of the city.
- (2) A waste/trash bin or container must be on site for the daily collection of construction debris and trash.
- (3) Portable restroom facilities must be in place on the job site.
- (4) City inspection of existing public improvements to evaluate post-construction damage that may occur to road surfaces, including curb and gutter, and storm drains adjacent to the construction activity.

A building permit shall only be approved by the city after the measures outlined above are completed and the applicant receives a pre-construction site approval. (Ord. #189, Aug. 1996, as amended by Ord. #10-141, Jan. 2009)

12-203. Monetary deposit required. A refundable deposit in an amount determined by the board of commissioners is required for each residential and commercial lot. Said deposit will be refunded to the applicant if it has been demonstrated during the course of construction that erosion control practices have remained in place and have not been breached and construction debris and waste has been controlled.

(1) It has been demonstrated during the course of construction that erosion control practices have remained in place and have not been breached and construction debris and waste has been controlled; and

(2) All required permit conditions have been satisfied and/or not violated including:

(a) Erosion control, tree fencing, clearing limits, and grading and drainage requirements; and

(b) Existing public improvements such as roadway conditions, curb and gutter, and adjacent drainage structures remain unharmed from pre-construction condition to post-construction condition; and

(c) Individual lot conditions as set forth in the development approval process and city ordinances have been completed and approved by the appropriate city official. (Ord. #189, Aug. 1996, as replaced by Ord. #06-98, Dec. 2006, as amended by Ord. #10-141, Jan. 2009)

12-204. Revocation of deposit. (1) Any violation not corrected within two (2) working days from the date of written notice by the city manager or his designee shall be considered a breach of the building permit and subject the permit to possible revocation and/or suspension.

(2) Should it become necessary for the city to correct any violation, a fee deduction from the deposit for costs incurred to mitigate said violations may be assessed and the remaining balance, if any, returned to the applicant upon completion and inspection of the project. Should mitigation costs exceed the amount deposited, the permittee shall be required to pay the balance prior to receiving a certificate of occupancy.

(3) The city reserves the right to put a “stop work order” on any project until the inspector determines that all violations have been corrected. (Ord. #189, Aug. 1996, as amended by Ord. #10-141, Jan. 2009)

CHAPTER 3

RETAINING WALLS

SECTION

- 12-101. Purpose and scope.
- 12-102. Definitions.
- 12-103. Permit required.
- 12-104. Exemptions.
- 12-105. Design and construction.
- 12-106. Variances.
- 12-107. Appeals.
- 12-108. Conflicts.
- 12-109. Severability.

12-101. Purpose and scope. The purpose of this chapter is to provide minimum standards to safeguard life, health, property and public welfare by governing the construction and placement of retaining wall systems through the adoption of specific standards to augment existing codes. These provisions shall apply to the construction and/or alteration of retaining walls on all public and private property that is not within a public right-of-way of the city. (as added by Ord. #08-121, July 2008)

12-102. Definitions. For the purposes of this chapter, the following definitions shall apply:

- (1) "Building code" means the latest edition of the International Building Code as amended and adopted by Shelby County.
- (2) "Cut" means an alteration or excavation of the slope of native soils material resulting in a new face or slope.
- (3) "Fill" means the placement of soils material to achieve a new ground surface.
- (4) "Height of wall" means the measured distance between the bottom of the footing to the top of a wall.
- (5) "Retaining wall" means a manmade structure built out of rock, concrete, block, wood, or other similar material and used to either directly support retained material or to serve as a facing of a cut slope. This definition includes, but is not limited to, other systems designed to retain earth or other materials such as a geosynthetic-reinforced soil system or pre-engineered structures.
- (6) "Structural repairs" means to replace, restore, or remove any part of a retaining wall which affects its ability to resist the lateral or vertical forces of the adjacent soils. (as added by Ord. #08-121, July 2008)

12-103. Permit requirement. It shall be unlawful to construct, enlarge, or make structural repairs to any retaining wall without acquiring a permit from the City of Lakeland. Cosmetic repairs that do not affect the ability of the wall to resist lateral and vertical soil forces shall not require a permit. The application, submittal, permitting and inspection requirements for retaining walls shall be as specified in the building code and other city codes and ordinances.

(1) **Application.** To obtain a retaining wall permit, a completed application form and plot plat (site plan) must be submitted to the City of Lakeland. The plot plan shall show:

- (a) Location of all property lines;
- (b) Location of all existing and proposed structures;
- (c) Location of existing retaining walls on or adjacent to the property that is to remain in place if applicable;
- (d) Portions of existing retaining wall that will be replaced, if applicable;
- (e) Location of new, enlarged or structurally repaired retaining wall;
- (f) Location of utilities and utility easements, drainage easement and drainage ways;
- (g) Elevation above and below the retaining wall;
- (h) All trees.

(2) **Fee.** The fee for the retaining wall permit shall be as provided for in the fee ordinance. (as added by Ord. #08-121, July 2008)

12-104. Exemptions. (1) Retaining walls with a height of wall not exceeding four feet (4') are exempt from this chapter if:

- (a) The wall is set back from any adjacent property lines or structures at a minimum distance equal to the height of the wall;
- (b) The material retained by the wall slopes up and away from the wall at a ratio not exceeding one foot (1') vertical per three feet (3') horizontal distance; and
- (c) The wall is not supporting a surcharge.

(2) Emergency repairs required to stabilize slopes may exceed the height limits set forth in this chapter provided the city engineer determines the following criteria are met:

- (a) An imminent danger of slope failure exists that will threaten life or the safety of existing upslope or down slope property;
- (b) The code enforcement official certifies that strict compliance with the other provisions of this chapter is likely to result in insufficient time to complete the repairs to provide for the necessary stabilization of the active area.
- (c) The emergency repairs are not necessitated by actions of the applicant or property owner in violation of city codes.

(d) The height of the retaining walls is the minimum necessary to stabilize the slope. (as added by Ord. #08-121, July 2008)

12-105. Design and construction. (1) Retaining wall systems that are newly constructed, structurally repaired or enlarged shall be designed or reviewed by a professional engineer licensed to practice in the State of Tennessee for all loads as specified in the building code and within this chapter and in keeping with nationally recognized standards. Designs shall be based upon sound engineering and geotechnical principles.

(a) Utility easements. Retaining walls shall not restrict access to utilities.

(b) Drainage easements. Retaining walls shall not impede the normal flow of storm water and shall not cross an open drainage channel.

(c) Retaining walls shall not be constructed over a public or private access easement.

(d) Retaining walls constructed near street intersections shall provide a reasonable degree of traffic visibility.

(2) **Maximum wall heights.** (a) The maximum height of a retaining wall in a fill section shall be limited to ten feet (10').

(b) The maximum height of a retaining wall in a cut section shall be limited to twelve feet (12'). A section that consists of a combination of a cut and a fill shall be considered as a cut; provided that the fill above the cut is no more than two feet (2') in depth.

(c) Where multiple walls are situated in a terrace-like pattern, they shall be considered one (1) wall for purposes of determining the height of wall if the horizontal separation between adjacent walls is less than or equal to the combined height of the walls. (as added by Ord. #08-121, July 2008)

12-106. Variances. Where there are unique constraints that would prohibit full compliance with the provisions of this chapter and would deny the property owner of use of their property that would be permitted to other properties, a variance may be considered. (as added by Ord. #08-121, July 2008)

12-107. Appeals. Any person or entity aggrieved by any decision or order of the city engineer under this chapter may appeal the decision to the board of appeals.

(1) The City of Lakeland Board of Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(2) Variances may be issued in regards to the interpretation of the rules in regards to issuing a permit such as the height of the wall and exemptions. The permit fee shall not be appealed.

(3) In passing upon such variances, the board of appeals shall consider all technical evaluations, all relevant factors such as practices and design

guidelines contained within this chapter and those that are spelled out in the International Building Code as adopted by Shelby County.

(4) Upon consideration of the factors listed above, and the purposes of this chapter, the board of appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

(5) Request for variances may be appealed within thirty (30) calendar days from the date that the permit was issued.

(6) Variances may be issued upon a determination that the variance is the minimum relief necessary, considering the amount of the fee and/or the property classification.

(7) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship compared to other similarly assessed property; and

(c) A determination that the granting of a variance will not result in conflict with existing local laws or ordinances.

(8) Written notice. Any applicant to whom a variance is granted shall be given written notice by the board of appeals.

(9) Record keeping and reporting. The City of Lakeland shall maintain the record of all appeal actions.

(10) All appeals shall be reviewed and a decision rendered within forty-five (45) days after the appeal is filed. (as added by Ord. #08-121, July 2008)

12-108. Conflicts. Where there is a conflict between this chapter and any other code or ordinance of the city, the more specific provisions shall apply. If any section, sentence, clause, or phrase of this chapter shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter. (as added by Ord. #08-121, July 2008)

12-109. Severability. If any section, sentence, clause or phrase of this chapter shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter. (as added by Ord. #08-121, July 2008)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNK.
3. SUBSTANDARD PROPERTY REMOVAL.
4. LAKELAND TREE MANAGEMENT ORDINANCE.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Inoperative vehicles on or adjacent to residential property.
- 13-108. Overgrown and dirty lots.
- 13-109. Accumulation and/or storage of loose branches, limbs and yard waste.
- 13-110. Abutting property owners to keep right-of-way free and clear of litter.

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the board of commissioners shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1989 Code, § 8-101)

13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1989 Code, § 8-103)

¹Municipal code references

Animal control: title 10.

Fee schedule; tree removal, etc.: appendix A.

Littering streets, etc.: § 16-105.

Toilet facilities in beer places: § 8-211(11).

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1989 Code, § 8-104)

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and/or noxious weeds on their property, except as provided in state law. It shall be unlawful for any person to fail to comply with an order by the City of Lakeland to cut such vegetation when it has reached a height of one foot (1') if located in a non-residentially zoned parcel (specifically including, but not limited to, commercially owned parcels), or a height of one-half foot (1/2') if located within a residentially zoned parcel. Areas designated by the city as conservation easements or natural areas shall be exempt from the provisions set forth herein but may be regulated as set forth elsewhere in the code of ordinances. (1989 Code, § 8-105, as amended by Ord. #06-92, July 2006, and replaced by Ord. #11-163, Oct. 2011)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1989 Code, § 8-106)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1989 Code, § 8-107)

13-107. Inoperative vehicles on or adjacent to residential property.¹ It shall be unlawful for the owner or person in control of any residential lot in the city to keep any inoperative motor vehicle on the lot or on any street adjacent to the lot for more than seventy-two (72) hours unless the vehicle is completely enclosed within a building. (1989 Code, § 8-108)

13-108. 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,

¹Municipal Code references

Parking/storage of recreational vehicles and equipment: § 15-609.

maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush, and/or the accumulation of debris, trash, litter, or garbage, or any combination of the preceding elements, so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rates and other harmful animals. For the purposes of this prohibition, grass of any kind that exceeds six inches (6") in height on a residentially zoned parcel and grass of any kind that exceeds twelve inches (12") on a nonresidentially zoned parcel shall be deemed to violate this section. Areas designated by the city as conservation easements or natural areas shall be exempt from the provisions set forth herein, but may be regulated as set forth elsewhere in the code of ordinances.

(2) Designation of public officer or department. The city manager 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 to enforce the provisions of this section to serve notice upon the owner of record in violation of subsection (1) above. The notice shall be given by United States mail, addressed to the last known address of the owner of record. When an attempt at notification by United States mail fails or no valid last known address exists for the owner of record, the municipality may publish the notice in a newspaper of general circulation in the county where the property sits for no less than two (2) consecutive issues or personally deliver the notice to the owner of record. For purposes of this section, such publication shall constitute receipt of notice effective on the date of the second publication of the notice and personal delivery shall constitute receipt of notice immediately upon delivery. The notice shall state that the owner of the property is entitled to a hearing. The notice shall be written in plain language and shall also include, but not be limited to, the following elements:

(a) A brief statement of this section, which shall contain the consequences of failing to remedy the noted condition;

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

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the community; 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 person fails or refuses to remedy the condition within ten (10) days after receiving the notice, the appropriate department or person may immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. 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 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 of the county in which the property lies, 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 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.

(5) Clean-up of owner-occupied property. (a) 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 appropriate department or person may 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. Subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property, except that the municipality shall 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.

(b) If the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage or other materials, the ten (10) day period specified in subsection (4) shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays.

(6) Appeal/hearing. The municipal governing body or the appropriate department, or both, may make any rules and regulations necessary for the administration and enforcement of this section. The municipality shall provide for a hearing upon request of the person aggrieved by the determination made pursuant to subsection (b). A request for a hearing shall be made within ten (10) days following the receipt of the notice issued pursuant to subsection (3). Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing. Any person aggrieved by an order or act of the board of commissioners under this section may seek judicial review of the order or act. The time period established in subsection (5) shall be stayed during the pendency of a hearing.

(7) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, similar authority in any municipality's charter or other applicable law.

(8) Violations/penalty. In addition to the liability for the costs to remedy or remove any condition described in this section, any property owner who violates this section may be cited and subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this section. Each day the violation continues shall be considered a separate violation. (as added by Ord. #02-11, Aug. 2002, and replaced by Ord. #17-255, Sept. 2017 *Ch8_12-06-18*)

13-109. Accumulation and/or storage of loose branches, limbs and yard waste. (1) It shall be unlawful for any property owner or resident to accumulate and/or store loose limbs, branches, and other such yard waste in front setback areas of residentially zoned property within the city limits of the City of Lakeland for periods of time exceeding seven (7) days.

(2) Any parcel zoned AG (agricultural) shall be exempt from the requirements of this section if the parcel is being employed primarily for the purpose of providing agricultural services, including, but not limited to forestry, cultivating or producing crops, and raising livestock. AG (agricultural) zoned parcels which are employed primarily for a non-agricultural use shall comply with this section.

(3) The provisions of this section may be waived in writing by the city manager in the event of severe storms or other acts of God whereby loose limbs, branches and other such yard waste may be generated in such quantities that timely disposal is practically inhibited.

(4) The provisions of this section are severable. If any provision of this section or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application.

(5) Any person, firm or corporation violating any provision of this section shall be fined not less than fifty dollars (\$50.00) for each offense, and a separate and continuing offense shall be deemed committed for each day said violation continues.

(6) The ordinance comprising this section shall take effect fifteen (15) days after its final passage and publication, the public welfare requiring it. (as added by Ord. #10-151, Aug. 2010)

13-110. Abutting property owners to keep tight of way free and clear of litter. (1) It shall be the duty of the property owners of all property within the City of Lakeland to keep the rights-of-way abutting their property free and clear litter. The code enforcement department of the City of Lakeland, when it determines that a portion or all of an abutting right-of-way has an

accumulation of litter, shall notify the property owner and require that all litter be removed as follows:

(a) Owners of occupied properties within residential and commercial zoning districts shall remove all litter within seventy-two (72) hours of notification.

(b) Owners of unoccupied properties, or occupied properties within agricultural zoning districts, shall remove all litter within ten (10) days of notification.

(2) The following terms used herein are defined as follows:

(a) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;

(b) "Litter" includes garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in Tennessee Code Annotated, § 39-17-1503(9) and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked;

(c) "Refuse" includes all putrescible and nonputrescible solid waste; and

(d) "Rubbish" includes nonputrescible solid waste consisting of both combustible and noncombustible waste. (as added by Ord. #16-237, April 2016)

CHAPTER 2**JUNK****SECTION**

13-201. Definitions.

13-202. Junk prohibited.

13-203. Junkyards prohibited.

13-201. Definitions. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(2) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers. (1989 Code, § 8-401, modified)

13-202. Junk prohibited. The accumulation of junk within the city is prohibited.

13-203. Junkyards prohibited. Junkyards are prohibited within the City of Lakeland.

CHAPTER 3

SUBSTANDARD PROPERTY REMOVAL

SECTION

- 13-301. Findings of board.
- 13-302. Definitions
- 13-303. Public officer; designated powers.
- 13-304. Initiation of proceedings; hearings.
- 13-305. Orders to owners of unfit structures.
- 13-306. When public officer may repair, etc.
- 13-307. When public authority or officer may remove or demolish.
- 13-308. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-309. Basis for a finding of unfitness.
- 13-310. Service of complaints or orders.
- 13-311. Enjoining enforcement of order.
- 13-312. Additional powers of public officer.
- 13-313. Powers conferred are supplemental.

13-301. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101 et seq., the board of commissioners finds that there may now or in the future exist in the city structures which are unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such structures 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 and, therefore, ordains as follows. (1989 Code, § 4-501)

13-302. Definitions. For purposes of this chapter, the following terms, phrases, words, and their derivation shall have the meaning given herein:

(1) "Municipality." The City of Lakeland, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(2) "Governing body." The board of commissioners.

(3) "Public officer." The officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(4) "Public authority." A duly appointed commission, authority or officer of the governing body of the city, county or state charged with responsibilities relating to health, fire, building regulations, demolition or other activities concerning structures in the city.

(5) "Owner." The holder of title in fee simple and every mortgage of record.

(6) "Parties in interest." All individuals, associations, corporations and other who have interests of record in a dwelling and any who are in possession thereof.

(7) "Structures." Any building or structure, or part thereof, used for human occupation or use, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (1989 Code, § 4-502)

13-303. Public officer; designated powers. There is hereby designated and appointed a public officer, to be the city manager to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the city manager. (1989 Code, § 4-503, modified)

13-304. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer 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 office (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 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 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 court of law or equity shall not be controlling in hearings before the public officer. (1989 Code, § 4-504)

13-305. 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 occupancy 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, during the time specified in the order, to repair, alter, or improve such structure to render it unfit for human occupancy or use or to vacate and close the structure for human occupancy 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. (1989 Code, § 4-505)

13-306. 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 occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." (1989 Code, § 4-506)

13-307. When public authority or 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. (1989 Code, § 4-507)

13-308. 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 authority or officer shall be a lien against the real property upon which such costs were incurred. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court the 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, provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or as otherwise may be provided by the charter or ordinances of the city. (1989 Code, § 4-508)

13-309. Basis for a finding of unfitness. The public authority or 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 structure or other residents of the city; 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; and uncleanness. (1989 Code, § 4-509)

13-310. 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 person is 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 having general circulation in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the 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 the county, and such filing shall have the same force and effect as other lis pendens notices provided by law. (1989 Code, § 4-510)

13-311. Enjoining enforcement of order. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit 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 suit 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. (1989 Code, § 4-511)

13-312. Additional powers of public officer. The public authority or 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. (1989 Code, § 4-512)

13-313. 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 ordinance 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. (1989 Code, § 4-513)

CHAPTER 4

LAKELAND TREE MANAGEMENT ORDINANCE¹

SECTION

- 13-401. General Requirements.
- 13-402. Plans and Surveys.
- 13-403. Landmark Trees.
- 13-404. Specimen Trees.
- 13-405. Standard Trees.
- 13-406. Tree Bank.
- 13-407. Violations.
- 13-408. Tree Protection Security.
- 13-409. Tree Protection During Construction.
- 13-410. Municipal Tree Management.
- 13-411. Appeal.
- 13-412. Provisions for Violating Mitigation.
- 13-413. Delay or Failure to Enforce.
- 13-414. Interference with City Natural Resources Board.
- 13-415. Severability.
- 13-416. Provisions of Federal and State Law Excepted.
- 13-417. -- 13-438. [Deleted.]

13-401. General Requirements. (1) Intent. The disturbance of trees under any circumstances shall be regulated according to the provisions of this Section with the following goals.

(a) To preserve, protect, and enhance valuable natural resources and to protect the health, safety, and welfare of residents.

(b) To establish standards limiting the removal of and ensuring the replacement of trees sufficient to safeguard the ecological and aesthetic environment of the city.

(c) To prevent the unnecessary clearing and disturbing of land so as to preserve the natural and existing growth of vegetation and to replace removed trees with the same, comparable, or improved species.

(d) To guide the conservation, protection, maintenance, and establishment of trees in order to maximize Tree Canopy Coverage across the city and to preserve trees and community forest health.

(e) To establish provisions consistent with forestry policy and practice for urban areas promulgated by the State Division of Forestry in

¹The capitalization in this chapter remain as set forth in Ord. #13-197 as § 13-401(4).

recognition that trees are a part of our heritage and our future, and that they are an essential part of the quality of life within the city.

(f) To maximize the benefits of trees and vegetation, including a reduction in the urban heat island effect, more sustainable management of stormwater, and filtration of particulate matter from the air, restoring oxygen to the atmosphere and reducing air pollution.

(2) Applicability. The provisions in this Section apply to any site disturbance activity on any Lot, such as grade changes; construction, enlargement, or relocation of a Principal or Accessory Structure(s); development of such facilities as parking lots; and removal of trees not associated with construction or Subdivision activity, with the following exemptions.

(a) Certified tree farms with a Timber Harvesting Plan filed with the Code Administrator are exempt from the tree removal requirements (refer to I.4.S. of the Land Development Regulations).

(b) Removal of trees from Lots zoned Agriculture, except as noted in III.2.M(24) of the Land Development Regulations.

(c) Removal of hazardous trees and vegetation in accordance with the City's Municipal Code.

(d) Emergencies. In case of emergencies, such as hurricane, tornado, windstorm, flood, ice storm or other disasters, the requirements of these regulations may be waived by the Arborist or other designated official, upon a finding that such waiver is necessary so that public or private work to restore order in the City of Lakeland will not be impeded.

(3) General requirements. The following general requirements apply.

(a) Measuring and Noting Existing Tree Size. Tree size for existing trees shall be measured at four and a half feet (4 1/2') above the mean grade of the tree's trunk, noted as diameter breast height (DBH) throughout the Tree Management Ordinance.

(b) Replacement Tree Installation Standards. Refer to III.5 of the Land Development Regulations for new tree installation requirements, including but not limited to size, process, maintenance, and tree establishment security.

(c) Characteristics of Replacement Trees. The following characteristics shall be considered when designing the Tree Replacement Plan.

(i) All replacement trees shall have similar characteristics of the removed tree(s), such as mature height and spread.

(ii) Replacement trees shall be selected based on the characteristics of the site, such as soil conditions, available light, and anticipated use.

(iii) An appropriate mix of species, deciduous and evergreen trees, and flowering and nonflowering trees shall be utilized. A monoculture is not permitted. Refer to III.5.B(6)(d)

Species Composition of the Land Development Regulations for guidance on appropriate mix.

(d) Referenced Standards. The standards and regulations contained in the City Zoning Ordinance, the Lakeland Design Review Guidelines and ordinances relating to the same, and those standards of the American National Standards Institute (ANSI) Standards for Tree Care Operations (ANSI A300) or the International Society of Arboriculture (ISA) publication Principles and Practice of Planting Trees and Shrubs, which are incorporated herein by reference as if fully set forth, are an integral part of this chapter. Where provisions of this chapter conflict with a standard of the ANSI A300 guidelines, the ISA guidelines, the Design Review Guidelines or other ordinances or regulations of the city, the most stringent provision shall be enforced. The provisions of this chapter are considered minimum requirements.

(4) Definitions. Words capitalized throughout the Tree Management Ordinance are defined in Article I.2 of the Land Development Regulations (Subdivision Regulations and Zoning Ordinance) or defined within the Section in which they occur. (as added by Ord. #____, Feb. 2001, amended by Ord. #02-15, Nov. 2002, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #13-197, Sept. 2013)

13-402. Plans and Surveys. (1) Intent. The plans and surveys detailed here aim to achieve the following goals.

(a) To ensure that development plans consider the existing tree cover in their design.

(b) To ensure that preserved trees are properly protected during site disturbance.

(c) To ensure that appropriate removal and replacement standards are followed.

(2) Applicability. The survey and plans associated with this Section are required as a part of various development activities and processes, as are detailed in I.4 Process Criteria and Applications of the Land Development Regulations.

(3) General Requirements. All plans and surveys shall have a title block, including north arrow, graphic and written scale, street address, legal description, date of preparation, and the name, address, and telephone number of person preparing plan.

(4) Tree Survey. A Tree Survey indicates the type, size, and health of trees on a Parcel and shall be utilized to inform the planning and design of said Parcel's development.

(a) Timing. Tree Surveys are completed as a preliminary step in a Parcel's development, to ensure that its results appropriately inform the development's design (refer to I.4 for information on which development processes require its completion).

(b) City Approval. The Tree Survey shall be reviewed and the proposed protection and removal of trees shall be approved or disapproved with the development approval application (refer to I.4)

(c) Qualified Surveyor. Survey shall be completed by a registered surveyor, under the supervision of an ISA Certified Arborist or other City approved professional arborist or forester.

(d) Survey Expiration. Tree surveys are considered valid for a period of five (5) years, and upon expiration, if construction is not complete, a new survey shall be submitted.

(e) Survey Requirements. On a topographic survey, the following shall be indicated for all trees equal to and greater than six inches (6") DBH.

(i) Species (common and scientific names), size, and health.

(ii) Location.

(iii) Proposed designation as to be preserved or removed.

(iv) Existing Tree Canopy.

(a) Delineate Canopy to be removed in gray.

(b) Assume two feet (2') of canopy per one inch (1") of tree at DBH.

(v) Delineate Conservation and Priority Areas, Landmark Trees, Specimen Trees, and Forest Stand Groups.

(vi) Denote the percentage of Tree Canopy Coverage Requirements (refer to III.SF-I of the Land Development Regulations) met through preservation of existing trees.

(vii) Existing structures, power lines, easements, and other similar features.

(5) Tree Replacement Schedule for Preliminary Plat Process. The Tree Replacement Schedule illustrates the quantity of trees to be removed and replaced, the general locations available for the planting of replacements trees, and the proposed contribution to the Tree Bank.

(a) Timing. The Tree Replacement Schedule shall be completed at the beginning of the development process to assist with the design of the development. Tree Replacement Schedules are required per I.4.C Preliminary Plat of the Land Development Regulations.

(b) City Approval. The Tree Replacement Schedule shall be reviewed and the proposed replacement shall be approved or disapproved with the Preliminary Plat application (refer to I.4.C of the Land Development Regulations).

(c) Schedule Requirements. Tree Replacement Schedules shall detail the following.

(i) Location of all available planting areas including Landscape Areas; frontage buffers, side and rear buffers, interior parking lot landscaping, Open Spaces, stormwater basins,

Streamside Management Buffers, and Conservation Area C. Include square footage calculations for each available planting area.

(ii) Areas unavailable for planting such as existing and proposed structures, utility locations (water, sewer, stormwater, gas, and electric), Easements, water bodies, other Conservation Areas, and others.

(iii) Dimensioned Property Lines.

(iv) Location of existing trees proposed to be preserved and which will be counted toward canopy coverage requirements (refer to III.5.G through J of the Land Development Regulations).

(v) Summary table of all trees proposed to be removed and the proposed number of replacement trees to be planted by tree size (large, medium, small) and type, including but not limited to such types as overstory deciduous shade tree, evergreen tree, understory tree, ornamental tree.

(vi) Proposed contribution to the Tree Bank, including the number and size of trees for which the contribution is being made and the associated dollar amount. Refer to 13-406 for details and permission requirements.

(6) Tree Replacement Plan. The Tree Replacement Plan illustrates the location, quantity, and quality of tree(s) to be planted on a site.

(a) Timing. Tree Replacement Plans are required per I.4.D of the Land Development Regulations.

(b) City Approval. The Tree Replacement Plan shall be reviewed and the proposed replacement shall be approved or disapproved with the applicable development approval applications (refer to I.4 of the Land Development Regulations).

(c) Plan Requirements. Tree Replacement Plan shall detail the following.

(i) Dimensioned Property Lines.

(ii) Existing and proposed structures, utilities (water, sewer, stormwater, gas, and electric), Easements, grading, and Open Space and recreation.

(iii) Delineate Conservation and Priority Areas, Specimen Trees, and Forest Stand Groups.

(iv) Location of existing trees proposed to be preserved and removed.

(v) Location of trees to be planted.

(vi) Summary table of all trees removed and the required replacement trees planted by species and size.

(vii) When applicable, denote the percentage of residential Tree Canopy Coverage requirements met through planting new trees.

(d) **Tree Bank.** Proposed contribution shall be noted on the plan, including the number and size of trees for which the contribution is being made and the associated dollar amount. Refer to 13-406 for details and permission requirements.

(7) **Tree Protection Plan.** Tree Protection Plans detail how preserved trees shall be protected and cared for during a site disturbance and denote the areas of tree protection.

(a) **Timing.** The tree protection plan shall be submitted with the Construction Plan application (refer to I.4.D of the Land Development Regulations) and with all construction and building permit applications.

(b) **City Approval.** The Tree Protection Plan shall be reviewed and the proposed protection methods shall be approved or disapproved by the City. No site clearing or disturbance activities shall commence until the City has approved the Tree Protection Plan.

(c) **Plan Requirements.** Plan shall include the following information.

(i) **Dimensioned Property Lines.**

(ii) **Existing and proposed structures, utilities (water, sewer, stormwater, gas, and electric), Easements, grading at no greater than two foot (2') contours, and Open Space and recreation.**

(iii) **Project descriptions, including phasing details.**

(iv) **Construction information, including construction equipment points of access, temporary roads, and location of staging areas for vehicles, material storage, and other related activities.**

(v) **Tree Survey.**

(vi) **Critical Root Zone of preserved trees.**

(vii) **Proposed method(s) and placement of tree protection.**

(viii) **Special treatment plan, if applicable. Refer to 13-409(5). (as added by Ord. #___, Feb. 2001, and replaced by Ord. #03-36, June 2003, and Ord. #04-73, Dec. 2004, and amended by Ord. #08-125, Nov. 2008, and replaced by Ord. #13-197, Sept. 2013)**

13-403. Landmark Trees. (1) **Intent.** To identify and preserve irreplaceable trees within the City.

(2) **Applicability.** The Landmark Tree designation applies to all trees on all Lots in all Zoning Districts that meet the parameters of this subsection.

(3) **General Requirements.** A Landmark Tree is a high value tree, as determined by a certified forester or certified arborist, using the following criteria.

(a) **Qualifying Tree Type.** Tree shall not be listed on the most recent edition of the Tennessee Invasive Exotic Plant List.

(b) Size Criteria. Tree shall meet one (1) of the following parameters.

(i) Tree shall equal or exceed sixty inches (60") DBH.

(ii) A lesser sized tree of historical significance listed on the Tennessee Champion Tree list or Tennessee Landmark and Historic Tree Registry, as maintained by the Tennessee Division of Forestry.

(c) Condition Criteria. All Landmark Trees shall be in fair or better condition and shall meet the following minimum standards.

(i) A life expectancy of greater than fifteen (15) years.

(ii) A structurally sound trunk without having extensive decay.

(iii) No more than one (1) major and several minor dead limbs.

(iv) No major insect or pathological problems.

(4) Removal and Replacement Parameters. Site design shall take the existence of Landmark Trees into consideration. These trees shall only be removed if, through the Tree Removal Permit process (I.4.S of the Land Development Regulations), the City finds other site development configurations are not viable and only in accordance with the following.

(a) Tree Removal Permit. Requires approval of a Tree Removal Permit (refer to I.4.S of the Land Development Regulations).

(b) Tree Replacement. Removed Landmark Trees on any Lot shall be replaced per the following.

(i) Rate. Trees shall be replaced at a rate of two hundred percent (200%) of the DBH inches removed.

(ii) Tree Replacement Plan Required. Proposed replacement trees shall be reviewed and considered for approval through the submittal of a Tree Replacement Plan (refer to 13-402(6)).

(iii) Installation. Replacement trees shall meet the requirements of III.5.B of the Land Development Regulations, including but not limited to quality, size, and species.

(iv) Replacement Parameters. As many replacement trees shall be planted on the Applicant's Property as the site will support within the following parameters, as illustrated on the Tree Replacement Plan (refer to 13-402(6)).

(A) Trees installed on the Applicant's Property per the requirements in III.5 Landscape, of the Land Development Regulations, may be utilized to satisfy tree replacement requirements.

(B) Additional trees not required per III.5 shall be planted in Landscape Areas, any Streamside Management Buffers, Scenic Corridor Buffers, Open Space Types, and/or

any Conservation Area C, at or not to exceed one (1) tree per two thousand (2,000) square feet to meet the replacement requirements.

(C) Replacement trees shall be placed on site at the maximum the site can support based on installation standards per III.S of the Land Development Regulations and 13-403(4)(b), above.

(D) The replacement inches not physically planted shall be handled through a monetary contribution to the Tree Bank (refer to 13-406).

(E) Plantings on Parcels other than those included in the Application are not permitted to serve as replacement trees.

(v) **Single Family Lot Exception.** Replacement of Landmark Trees removed from a Single Family Lot (refer to Building Types III.4.N-U of the Land Development Regulations) is only required up to the point where that Lot satisfies the Tree Canopy Coverage Requirements (refer to III.5.G of the Land Development Regulations). If a Lot meets the Tree Canopy Coverage Requirement with existing trees six inches (6") DBH or larger prior to the installation of replacement trees, no replacement is required.

(5) **Tree Protection Security.** Security is required for Landmark Trees designated as preserved on all Lots undergoing site disturbance (refer to 13-408).

(6) **Protection During Construction.** Refer to 13-409 for specific protection methods for Landmark Trees. (as added by Ord. #02-06, April 2002, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #130-197, Sept. 2013)

13-404. Specimen Trees. (1) **Intent.** To identify and preserve large, healthy trees within the City and to establish parameters for their removal and replacement.

(2) **Applicability.** The Specimen Tree designation applies to all trees on all Lots in all Zoning Districts that meet the parameters of this subsection.

(3) **General Requirements.** A Specimen Tree is a high value tree, as determined by a registered forester, certified arborist, or other City approved professional arborist or forester using the following criteria.

(a) **Qualifying Tree Type.** (i) Tree shall not be listed on the most recent edition of the Tennessee Invasive Exotic Plant List.

(ii) Trees listed on the City's recommended species list, available at City Hall.

(b) **Size Criteria.** Tree shall meet one (1) of the following parameters.

(i) Tree shall measure at least twenty four inches (24") and less than sixty inches (60") DBH.

(ii) A lesser sized tree, if it meets any one (1) of the following criteria:

(A) Rare or unusual species, including but not limited to, species federally or state listed as endangered, threatened, or of special concern.

(B) Exceptional or unique quality, including but not limited to, a tree that is the only species of its kind or size within the project area, or a tree that provides habitat for a species that is state or federally listed as endangered, threatened, or of special concern. Special concern includes any species or subspecies of plant that is uncommon in Tennessee, or has unique or highly specific habitat requirements or scientific value and, therefore, requires careful monitoring of its status.

(c) Condition Criteria. All Specimen Trees shall be in fair or better condition and shall meet the following minimum standards.

(i) A life expectancy of greater than fifteen (15) years.

(ii) A structurally sound trunk without having extensive decay.

(iii) No more than one (1) major and several minor dead limbs.

(iv) No major insect or pathological problems.

(4) Removal and Replacement Parameters. Site design shall take the existence of Specimen Trees into consideration. Removal of Specimen Trees shall adhere to the following.

(a) Tree Removal Permit. Requires approval of a Tree Removal Permit (refer to I.4.S of the Land Development Regulations).

(b) Tree Replacement. Removed Specimen Trees shall be replaced according to the following parameters.

(i) Exception for Single Family Lots. Replacement of Specimen trees removed from a Lot for Single Family (refer to Building Types III.4.N-U of the Land Development Regulations) is only required up to the point where that Lot satisfies the Tree Canopy Coverage Requirements (refer to III.5.G of the Land Development Regulations). If a Lot meets the Tree Canopy Coverage Requirement with existing trees six inches (6") DBH or larger prior to the installation of replacement trees, no replacement is required.

(ii) Rate. Trees shall be replaced at a rate of one hundred percent (100%) of the DBH inches removed.

(iii) Tree Replacement Plan Required. Proposed replacement trees shall be reviewed and considered for approval

through the submittal of a Tree Replacement Plan (refer to 13-402(6)).

(iv) **Installation.** Replacement trees shall meet the requirements of III.5.B of the Land Development Regulations, including but not limited to quality, size, and species.

(v) **Replacement Parameters.** As many replacement trees shall be planted on the Applicant's Property as the site will support within the following parameters, as illustrated on the Tree Replacement Plan (refer to 13-402(6)).

(A) Trees installed on the Applicant's Property per the Landscape requirements in III.5 of the Land Development Regulations may be utilized to satisfy tree replacement requirements.

(B) Additional trees not required per III.5 of the Land Development Regulations shall be planted in Landscape Areas, any Streamside Management Buffers, Scenic Corridor Buffers, Open Space Types, and/or any Conservation Area C, at or not to exceed one (1) tree per two thousand (2,000) square feet to meet the replacement requirements.

(C) Replacement trees shall be placed on site at the maximum the site can support based on installation standards per III.5 of the Land Development Regulations and 13-403(4)(b), above.

(D) The replacement inches not physically planted shall be handled through a monetary contribution to the Tree Bank (refer to 13-406). A lot recorded for or developed with single-family development is exempt from this requirement.

(E) Plantings on Parcels other than those included in the Application are not permitted to serve as replacement trees.

(5) **Tree Protection Security.** Security shall be required for Specimen Trees designated as preserved on all Lots undergoing site disturbance (refer to 13-408).

(6) **Protection During Construction.** Refer to 13-409 for specific protection methods for Specimen Trees. (as added by Ord. #___, Feb. 2001, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #13-197, Sept. 2013)

13-405. Standard Trees. (1) **Intent.** To establish parameters for the reasonable removal and replacement of Standard Trees within the City.

(2) Applicability. These standards apply to all trees not designated as Landmark or Specimen Trees on all Lots in all Zoning Districts that meet the parameters of this subsection.

(3) General Requirements. These trees meet the following criteria, as determined by a registered forester, certified arborist, or other City approved professional arborist or forester.

(a) Qualifying Tree Type. (i) Tree shall not be listed on the most recent edition of the Tennessee Invasive Exotic Plant List.

(ii) Trees listed on the City's recommended species list, available at City Hall.

(b) Size Criteria. Trees not designated as Landmark or Specimen Trees that are greater than or equal to ten inches (10") DBH.

(c) Condition Criteria. Trees shall be in fair or better condition and shall meet the following minimum standards.

(i) A life expectancy of greater than fifteen (15) years.

(ii) A structurally sound trunk without having extensive decay.

(iii) No more than one (1) major and several minor dead limbs.

(iv) No major insect or pathological problems.

(4) Removal and Replacement Parameters. Retention of these and larger trees is encouraged and site design shall take the existence of trees into consideration. Removal shall adhere to the following.

(a) Tree Removal Permit. Requires approval of a Tree Removal Permit (refer to 1.4.S of the Land Development Regulations).

(i) Exception. A permit is not required if all of the following are met.

(A) Lot is developed with or will be developed for single family (refer to Building Types III.3.N-U of the Land Development Regulations).

(B) Lot will be able to meet the Tree Canopy Coverage Requirements (refer to III.5.G of the Land Development Regulations) with existing trees six inches (6") DBH or larger, despite the proposed removal.

(C) The trees proposed for removal are each under ten (10) DBH inches.

(b) Tree Replacement. Removed trees shall be replaced according to the following parameters.

(i) Single Family Lots. (A) Replacement is not required for Lots meeting the exception criteria in 13-405.

(B) Replacement is only required up to the point of meeting the Tree Canopy Coverage Requirements (refer to III.5.G of the Land Development Regulations) with existing trees six inches (6") DBH or larger.

(ii) Rate for Non-Single Family Lots. Trees shall be replaced at a rate of fifty percent (50%) of the DBH inches removed.

(iii) Tree Replacement Plan Required. Proposed replacement shall be reviewed and considered for approval through the submittal of a Tree Replacement Plan (refer to 13-402(6)).

(iv) Installation. Replacement trees shall meet the requirements of III.5.B of the Land Development Regulations, including but not limited to quality, size, and species.

(v) Location. Planting of replacement inches shall be on the Applicant's Property.

(A) Trees installed on the Applicant's Property per the Landscape requirements in III.5 may be utilized to satisfy tree replacement requirements.

(B) Plantings on Parcels other than those included in the Application are not permitted to serve as replacement trees.

(vi) Tree Bank Contribution for Non-Single Family Lots. The replacement inches not physically planted shall be handled through a monetary contribution to the Tree Bank (refer to 13-406).

(c) Thinning. Standard Trees may be removed without replacement requirements if a thinning plan is developed and approved with the following criteria.

(i) The proposed thinning is to promote the health of the forested area.

(ii) Thinning plan shall be developed by a certified forester or registered professional forester.

(iii) The plan shall be considered for approval through the Tree Removal Permit process. Refer to I.4.S. Tree Removal Permit of the Land Development Regulations.

(5) Tree Protection Security. Security may be required for trees designated as preserved on all Lots undergoing a site disturbance (refer to 13-408 of the Land Development Regulations). (as added by Ord. # _____, Feb. 2001, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #13-197, Sept. 2013)

13-406. Tree Bank. (1) Intent. To provide a method of compliance with the tree replacement requirements of the Tree Management Ordinance. It is intended for circumstances where on-site planting of replacement trees is not possible due to the physical condition of a Lot, when Tree Canopy requirements cannot be met due to site constraints, or for mitigation of violations.

(2) Applicability. A contribution may be made to the Tree Bank by any Applicant or property Owner responsible for replacing removed trees, with City approval.

(3) Authority. Utilization of the Tree Bank requires the City's approval.

(a) Proposed use of the Tree Bank shall be detailed by the Applicant (refer to 13-402(6)).

(b) City shall review the proposed Tree Bank contributions and related Tree Replacement submitted with the Applicant's development application(s). See I.4 Process Criteria and Application (Land Development Regulations) for complete details on applicable processes.

(c) The Natural Resources Board (NRB)¹ shall review proposed Tree Bank donations during the application process and provide a recommendation to the MPC for Plats or Site Plans, or to the Code Administrator for Minor Site Plans and Tree Permits.

(d) All Tree Bank contributions require Code Administrator approval concurrent with the application process for the development (refer to I.4 of the Land Development Regulations) or through the Tree Removal Permit process without a development process application (refer to I.4.S of the Land Development Regulations).

(4) Contributions. Contributions are calculated as follows:

(a) Landmark Trees. Contribution is determined by the valuation formula provided in the current edition of the Guide for Plant Appraisal, as published by Council of Tree and Landscape Appraisers (CTLA).

(b) Specimen Trees. Contribution is determined by the valuation formula provided in the current edition of the Guide for Plant Appraisal, as published by Council of Tree and Landscape Appraisers (CTLA).

(c) Standard Trees. Contribution is determined by multiplying one hundred and twenty-five dollars (\$125.00) by the DBH inches that are not to be planted on-site.

(d) Amounts. The total value of trees removed from a site shall be calculated per the specifications of this section. This total value shall be multiplied by the percentage of the tree replacement inches not physically planted on site to determine the amount of Tree Bank contribution.

(5) Exceptions. The following development conditions shall modify the final determination of the Tree Bank Contribution (TBC):

(a) If located in a Neighborhood Type IV District

¹Ord. #14-202, Feb. 2014 provides: "the Lakeland Municipal Parks and Recreation Advisory Board (PRB) shall serve as the Natural Resources Board.

(i) First acre - TBC or five thousand dollars (\$5,000.00) whichever is less.

(ii) Up to two (2) acres - TBC or twelve thousand five hundred dollars (\$12,500.00) whichever is less.

(iii) Up to three (3) acres - TBC or twenty-two thousand dollars (\$22,500.00) whichever is less.

(iv) Up to four (4) acres - TBC or thirty-five thousand dollars (\$35,000.00) whichever is less.

(v) More than four (4) acres - tree bank contribution formula.

(b) If located in a Neighborhood Type V District the tree bank contribution formula is waived and the contribution is set at five thousand dollars (\$5,000.00) per whole acre or fraction thereof.

(6) Other donations. Tree protection and establishment securities (refer to § 13-408) forfeited due to failure to comply with these provisions shall be deposited in the Tree Bank. (as added by Ord. #____, Feb. 2001, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #13-197, Sept. 2013, and amended by Ord. #15-228, Nov. 2015)

13-407. Violations. (1) Intent. To provide the City with specific recourse, if the provisions of this Section are not adhered to.

(2) Applicability. In addition to the standards outlined in I.1.I Violations and Penalties of the Land Development Regulations, the following may be applied to Owners in violation of the provisions of this Section.

(3) Penalties. The following penalties may be applied to Owners found in violation of this Section.

(a) Revoke Permits. The City may revoke any permits until the matter is resolved.

(b) Required Tree Replacement. Illegally removed trees shall be replaced as follows.

(i) Landmark Trees shall be replaced per the replacement standards and rate defined in 13-403.

(ii) Specimen Trees shall be replaced per the replacement standards and rate defined in 13-404.

(iii) Standard Trees. shall be replaced per the replacement standards and rate defined in 13-405.

(c) Tree Bank donations (refer to 13-406) shall be made at the following rates:

(i) Landmark Trees. Contribution is determined by the valuation formula provided in the current edition of the Guide for Plant Appraisal, as published by Council of Tree and Landscape Appraisers (CTLA).

(ii) Specimen Trees. Contribution is determined by the valuation formula provided in the current edition of the Guide for

Plant Appraisal, as published by Council of Tree and Landscape Appraisers (CTLA).

(iii) Standard Trees. Contribution is determined by multiplying one hundred and twenty-five dollars (\$125.00) per DBH inches removed,

(d) Administrative Fees. (i) Landmark Tree violations shall pay a five thousand dollars (\$5,000.00) administrative fee per tree.

(ii) Specimen Tree violations shall pay a four thousand dollar (\$4,000.00) administrative fee per tree.

(iii) Standard Tree violations shall pay a two thousand dollar (\$2,000.00) administrative fee per tree.

(e) Required Replacement. Imposition of any penalty for a violation of this subsection shall not be construed as a waiver of the right of the City to collect from the defendant the cost of tree work done by the City which the defendant was required but failed to act upon. (as added by Ord. #____, Feb. 2001, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #13-197, Sept. 2013)

13-408. Tree Protection Security. (1) Intent. To ensure that trees designated to be protected during site development are appropriately managed.

(2) Applicability. Security is required under the following circumstances.

(a) For those receiving Plat, construction plans, or Site Plan approvals (refer to I.4.C-E and J-K of the Land Development Regulations) or other development or building permits that have Landmark, Specimen, and/or Standard trees designated to be protected during site development activities.

(b) For those receiving Minor Site Plan approvals that have Landmark trees designated to be protected during site development activities.

(3) Tree Protection Security. Security requires an escrow deposit, or irrevocable letter of credit in an amount equal to the cost of replacing the trees designated as to be protected (using the Council of Tree and Landscape Appraiser's or similar City approved organization's tree appraisal estimates) and associated labor.

(a) When the project involves a development agreement (refer to I.5.A of the Land Development Regulations), this requirement shall be included in this agreement; a separate security is not required.

(b) Security shall be held for two (2) years from the date of receipt of the Certificate of Compliance (I.4.R of the Land Development Regulations) or certificate of completion, unless violations of the Tree Protection Plan (refer to 13-402(6)) or the standards outlined in 13-409 were cited. If violations were found, the security shall be held for a period of five (5) years.

(c) Security may be released at the end of time periods established in 13-408(3)(b) only if the tree(s) are not dead, partially dead, or if none of the following is visible:

- (i) Undersized leafing.
- (ii) No new growth.
- (iii) Wilting or browning of leaves.
- (iv) Signs of insects, disease, or pests. (as added by Ord. #____, Feb. 2001, and replaced by Ord. #03-36, June 2003, and Ord. #04-73, Dec. 2004)

13-409. Tree Protection During Construction. (1) Intent. Protection measures shall be undertaken to preserve designated trees and stands during site development and construction.

(2) Applicability. On all Lots in all Zoning Districts, trees determined to be preserved, shall be protected utilizing the provisions outlined herein. The tree and/or any Critical Root Zone of a protected tree on adjacent lots shall be protected.

(3) Tree Protection Plan. An approved Tree Protection Plan, detailing which of the following protection methods shall be utilized, is required prior to commencing any site clearing or disturbance activities (refer to 13-402(7)).

(4) Prohibited Activities. Within protection areas, the following activities shall be prohibited:

- (a) Vehicle traffic or parking.
- (b) Materials or equipment storage.
- (c) Soil disturbance.
- (d) Soil excavation.
- (e) Removal of topsoil.
- (f) Trenching.
- (g) Soil fill.
- (h) Change in soil pH.
- (i) Change in soil drainage.
- (j) Equipment washouts or disposal (including concrete).
- (k) Fires.
- (l) Chemical or trash disposal.
- (m) Other activities harmful to the trees as determined by the

Code Administrator.

(5) Special Treatment. To ensure the health of certain preserved trees, unique care may be required for protected trees during a site disturbance.

- (a) Triggers for special treatment.
 - (i) All Landmark Trees shall be under the care of a certified arborist or forester.
 - (ii) City may require special treatment for Specimen Trees as a condition of approving the Tree Protection Plan (refer to 13-402(7)).

(iii) During the site disturbance or construction activity, the City may required special treatment if:

(A) A violation of the tree protection standards is found.

(B) A preserved tree, regardless of classification, is found to be stressed or in poor health.

(b) Requirements. All treatments shall be submitted for consideration of approval by the City. A certified arborist or forester shall perform the following.

(i) Visually inspect trees and perform any testing required.

(ii) Develop special treatment based upon conditions of the tree.

(iii) Conduct inspections to monitor treatment progress.

(6) Protection Methods During Construction. Protective barriers are required to prevent tree injuries caused by soil compaction, unnecessary cutting of roots, fire, tree damage caused by heavy equipment, carelessness with tools or girding with guy wires and injury caused by solvents, paints, oils, or other chemicals.

(a) Protect the Critical Root Zone. Enclose preserved trees in designated tree protection areas, noting location on the Tree Protection Plan, with standard orange barricade fencing or comparable fencing material approved by the Code Administrator.

(i) Such fencing shall be at least four feet (4') in height and supported by metal channel posts spaced a maximum of ten feet (10') on center.

(ii) Fencing shall be placed around all trees to be preserved.

(iii) Barrier shall be easily visible to equipment operators.

(iv) Hand tools only shall be utilized to remove brush or weeds within the barrier.

(b) Sediment and Siltation. In addition to the protection fencing, filter fabric fence, silt fence, or heavy duty silt fence (Type C per the Tennessee Department of Environment and Conservation) may be required along the limits of grading to protect the areas of tree preservation from sediment and siltation.

(c) Bark Protection. Tree trunks within fifteen feet (15') of a building site or access road shall be wrapped with sections of protection fencing or boards wired together.

(i) No nails or spikes shall be driven into preserved trees.

(ii) No preserved trees shall be used for signs, fencing, roping, or cables.

(d) Watering. Regular watering may be required.

(e) **Mulch.** Critical Root Zone shall be mulched with a minimum of three (3) and a maximum of eight inches (8") of organic mulch material such as pine, straw, wood chips, tree leaves, or compost.

(f) **Construction Dust.** Tree Leaves shall be kept free of construction dust to prevent dessication.

(g) **Felled Trees.** Trees to be removed from the site shall be felled away from Protection Zones (refer to II.12 for Subdivisions or III.9 for site developments of the Land Development Regulations) and shall not damage any trees to be retained.

(7) **Grade Changes.** Grading in and around the Critical Root Zone of a tree shall adhere to the following.

(a) Grading within the Critical Root Zone of Landmark and Specimen Trees are prohibited.

(b) Grading along the perimeter of the Critical Root Zone for Landmark and Specimen Trees may occur providing the following parameters.

(i) **Raising of Grade.** Up to a three feet (3') change is permitted along the perimeter of a tree's Critical Root Zone provided that an aeration system and retaining wall are installed.

(ii) **Lowering of Grade.** Grade shall not be lowered more than two feet (2') along the Critical Root Zone's perimeter. Terracing away from the Critical Root Zone is permitted at increments of two feet (2').

(iii) **Positive Drainage.** Significant changes in drainage shall be rectified by cutting Swales or other means previously approved in the Tree Protection Plan (refer to 13-402(7)).

(iv) **Fine Grading.** All fine grading within the Critical Root Zone shall be done by hand.

(c) Grading within and around the Critical Root Zone of a Standard Tree is permitted with the following requirements.

(i) Avoid grade changes within the Critical Root Zone if alternatives are feasible.

(ii) Grading is prohibited within the fifty percent (50%) of the Critical Root Zone adjacent to the protected tree's trunk or half of the radius of the Critical Root Zone measured from the trunk.

(iii) **Grade Change.** Up to one foot (1') of change, raising or lowering, is permitted in the outer Critical Root Zone.

(iv) **Positive Drainage.** Significant changes in drainage within and along the Critical Root Zone shall be rectified by cutting Swales or other means previously approved in the Tree Protection Plan (refer to 13-402(7)).

(8) **Excavation.** Excavation is not permitted within the Critical Root Zone of Landmark and Specimen Trees. For all other trees, minimize the

damage by limiting excavation and providing proper root care after any excavation.

(a) Utility Easements shall not be routed within the Critical Root Zone of a tree unless otherwise approved because:

(i) No other route is practical.

(ii) Tunnelling under the roots with a power-driven soil augur is impractical or financially infeasible in relation to the value of the tree.

(b) Root Protection. When excavating in the Critical Root Zone, the following cautionary steps shall be taken.

(i) Minimize the number of roots cut, especially structural roots.

(ii) Make clean cuts with proper tools and re-trim the roots after excavation.

(iii) Keep exposed roots moist by covering with burlap or similar material and watering at least once per day until trench is filled.

(iv) To minimize the time roots are exposed to the air, backfill the trench as soon as possible after excavation, leaving no pockets of air.

(v) Mix peat moss with fill soil to promote new root growth.

(9) Removal of Tree Protection. Protective fences and barriers around trees shall be removed only as the final stage of post-construction cleanup. (as added by Ord. #____, Feb. 2001, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #13-197, Sept. 2013)

13-410. Municipal Tree Management. (1) Intent. The intent of this Section is to provide standards and protocols for municipal tree management within the City of Lakeland.

(2)

(3) Applicability. The provisions of this section, which shall be consistent with forestry policy and practice for urban areas promulgated by the Tennessee Department of Agriculture, Division of Forestry, shall be applicable to all trees located on lands for which the City has responsibility and authority for tree management, public trees, or as otherwise specified in this section.

(4) Tree Planting. No person, organization, firm, or corporation shall plant or cause to be planted any public tree without first obtaining written approval from the Arborist. Further, any planting of a public tree shall conform to and the Arborist shall base the approval or disapproval of any public tree planting request on the standards set forth in this section.

(a) Source of supply. (i) All plant materials supplied shall conform to the latest edition of the American Standard for Nursery

Stock, as approved by the American National Standards Institute, Inc.

(ii) All trees may be inspected and approved by the Arborist, or his duly authorized representative, at the source of supply prior to digging. All materials are to be of the highest quality.

(iii) All plant materials shall have been grown under climatic conditions similar to those in the City.

(iv) All plants shall be typical of their species or variety and shall have a sufficient normal growth of spread and height. They shall be sound, healthy and vigorous, well-branched and densely foliated when in leaf. They shall be free of disease, insect pests and larvae. They shall have healthy, well-developed root systems. One (1) sided plants or plants taken from tightly planted nursery rows will be rejected.

(b) Inspection. (i) All plant material may be inspected and approved by the Arborist, or his duly authorized representative, prior to digging. Inspection and approval by the Arborist, or his duly authorized representative, at the source of supply does not abdicate the right of the Arborist to reject any materials after they have been delivered to the site. A final determination of acceptability of the material will be made at the time of delivery. The city will notify the nursery either by phone or in writing no more than five (5) days after delivery of all materials not acceptable to the Arborist

(ii) Plant material certificates of inspection, where required by federal, state or other governmental agencies, are to accompany all shipments.

(c) Planting. (i) All trees planted on public property shall be of a kind (species) referenced on the city's recommended Tree Species Selection List, on file with the City.

(ii) To curtail the spread of disease or insect infestation in a plant species, no more than forty percent (40%) of the trees to be planted on a site shall be of one (1) genus.

(iii) Trees should be placed in a configuration that promotes energy conservation in buildings, through the moderating effects of shade and the manipulation of air currents provided by the strategic location of trees.

(iv) Tree planting operations should be scheduled to complete the work within a time which is advantageous to the survival of the tree.

(v) Trees shall be planted in accordance with ISA Guidelines.

(d) **Tree Spacing:** The spacing of planted trees shall be in accordance with the two (2) species size classes listed in the City of Lakeland Tree Species Selection List with no trees planted closer than the following:

(i) **Understory Trees** - fifteen feet (15') apart, as measured from the center of the tree trunk.

(ii) **Overstory Trees** - thirty feet (30') apart, as measured from the center of the tree trunk.

(iii) A proposal to vary from these spacing requirements by grouping trees to achieve a special landscape effect may be approved by the Arborist.

(e) **Tree location.** (i) No overstory trees shall be planted under or within ten (10) lateral feet of any overhead utility transmission line nor within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.

(ii) No tree shall be planted closer than ten feet (10') to a fire hydrant, utility pole or streetlight. No overstory tree shall be planted within four feet (4') of any curb or sidewalk. No tree shall be planted in such a way as to obstruct the vision within the "sight triangle" as defined in the City of Lakeland Subdivision Regulations.

(iii) Trees that are to be planted shall be selected from species suitable for the proposed site conditions, including but not limited to, soil moisture, pH, and light requirements.

(5) **Tree Maintenance.** It shall be unlawful for any person, organization, firm, corporation or city department to perform maintenance as described herein on any public tree, as defined in this ordinance, in a manner inconsistent with ANSI A300 standards for tree care or in a manner that would violate the provisions of this section. Further, it shall be unlawful for any person, organization, firm, or corporation to perform maintenance as described herein on any public tree without first obtaining written authorization and approval from the Arborist. This approval or disapproval shall be based on the following standards and the ANSI A300 standards for tree care.

(a) **Topping.** The practice of tree topping, as defined in this ordinance, is prohibited on all public trees.

(b) **Pruning.** (i) Tree pruning shall be performed in a manner that protects the public. Public trees and private trees, as defined in this chapter, the branches of which suspend over public sidewalks and roadways shall be pruned by the responsible party to meet the following standards:

(A) The area above a sidewalk surface must be clear of branches for a minimum of eight feet (8').

(B) The area above a street surface must be clear of branches for a minimum of twelve feet (12').

(C) Tree branches must not obstruct the view from the roadway of any street sign or stop sign.

(D) No structure, planting or object of natural growth shall be placed or permitted to remain in such a manner as to obstruct vision within the "sight triangle," as defined in the City of Lakeland Subdivision Regulations.

(E) Trees shall be kept pruned of any dead, diseased or structurally damaged limbs or branches that could fall into the right-of-way or onto public property and thereby constitute a threat to public safety.

(ii) It shall be unlawful for any person, organization, firm, corporation, or city department to prune or cause to be pruned any public tree in a manner inconsistent with ANSI A300 standards for tree pruning.

(c) Other maintenance. Other maintenance practices on public trees, including but not limited to, mulching, watering, insect and disease control, fertilization, inoculation, and growth regulation shall be performed in a manner consistent with ISA standards or ANSI A300 standards whichever is more stringent or protective of tree health.

(6) Removal of Trees. The removal of trees within the city is deemed to sometimes be necessary to protect the safety of persons and property, to remove the risk of damage to overhead lines and obstruction of streets and to enhance the aesthetics of the city. In such cases, the provisions of this section shall apply.

(a) Hazardous public trees. The City shall, in the normal course of its duties, periodically conduct surveys to determine the location and severity of hazardous public trees. Dead, diseased or structurally damaged public trees that pose a safety or health risk to the public or to other trees shall be removed or the hazard otherwise mitigated by the City of Lakeland Natural Resources Department or Parks and Recreation Department in a timely manner. The City Manager or his designee shall evaluate the dead, diseased or structurally damaged tree as to the degree of hazard. This evaluation shall be made by using the International Society of Arboriculture (ISA) Standard Tree Condition Evaluation Guide or other comparable method. The results and an accompanying recommendation will be forwarded to the director of Natural Resources or Director of Parks and Recreation for action.

(b) Hazardous private trees. (i) When the city determines that a private tree, as defined in this chapter, is hazardous, as per the ISA Standard Tree Condition Evaluation Guide or other comparable method, and therefore should be removed, it shall provide written notice of this hazard to the party responsible for property management.

(ii) Notice sent by the City as aforesaid shall advise the responsible party to remove the hazardous tree not later than sixty (60) days from the date of the mailing of the notice except as provided in subsection (b)(iii) of this section.

(iii) In the event that the city determines that the tree poses an imminent safety hazard to the general public or adjacent properties, the notice aforesaid may establish a time requirement for removal shorter than sixty (60) days.

(iv) If the responsible party fails to remove a hazardous tree within the time specified in the written notice from the city, such failure shall constitute a violation of this division and shall be punishable in accordance with State Law and the provisions of this ordinance.

(v) If the responsible party fails to remove a hazardous tree within the time specified in the written notice from the city, and if the city determines that the hazardous tree constitutes an imminent threat to the property of others or to the general public or could result in damage to overhead lines or obstruction of streets, the city shall have the right to enter upon the property and remove the tree, and all costs incurred by the city in such regard shall be due and payable from the responsible party to the city upon demand, and, if not paid, the city shall have the right to file a notice of lien in the Register's Office of Shelby County, Tennessee and proceed to collect such costs and enforce such lien in accordance with the provision of law and consistent with the provisions of Section 13-421.1 of this chapter.

(c) Authorization for public tree removal. It shall be unlawful for any person, organization, firm, or corporation to remove or cause the removal of any public tree, as defined in this ordinance, without first obtaining a tree removal permit from the Arborist. The applicant for said tree removal must apply in writing to the City stating reasons for the tree removal. Upon receipt of the application, the Arborist shall review the application and evaluate the tree in question. If the tree in question is a non-specimen tree, or is determined by the Arborist to be a hazard to public safety, the Arborist may make a decision regarding its removal. Such decision will be made within thirty (30) days of receipt of the application. If the tree in question is a specimen tree, the Arborist shall forward the removal request to the Lakeland Tree Board along with a recommendation. The Tree Board decision shall be final.

(d) Removal of stumps. All stumps of removed public trees shall be removed below the surface of the ground so that the top of the stump shall not project of the surface of the ground. Stump removal shall be performed by the responsible party in a timely manner after tree removal.

(e) **Invasive species.** Pubic trees that are listed on the Southeast Exotic Pest Plant Council's Invasive Species List, or are otherwise determined by the Arborist to be a threat to the native vegetation of the area, may be removed, or caused to be removed, by the City of Lakeland Natural Resources Department or Parks and Recreation Department. The Arborist shall make a recommendation regarding the removal of such trees to the appropriate authority.

(7) **Qualifications of Contract Tree Companies.** All tree care workers and companies hired by the City or by outside parties that perform work on public trees shall provide the City with proof of at least one ISA Certified Arborist on staff or consulting with the company or individual.

(8) **Trees of Historic or Special Significance.** A tree of significant age, size or history can constitute a unique asset to the community. The Board of Commissioners, upon the recommendation of the Tree Board, can designate a unique specimen as a Lakeland heritage tree. A public tree so designated will be given special protection and maintenance, and special recognition as the situation warrants.

(9) **Official City Tree.** It is hereby decreed that the *Quercus alba* (white oak) shall be the official city tree. This selection is made because of its history, superior form and shape, its value to wildlife, and its strength of structure and life span in our geographic area. While it is not recommended that this species be selected over other species in planting on public or private property, it is recommended that the tree be recognized as a symbol of the community. (as added by Ord. #___, Feb. 2001, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #13-197, Sept. 2013)

13-411. Appeal. An appeal to the Board of Appeals may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, board or bureau affected by any decision of the Arborist based in whole or in part upon the provisions of this Ordinance. Such appeal shall be taken by filing with the Board of Appeals a notice of appeal, specifying the grounds thereof. The Arborist shall transmit to the Board all papers constituting the record upon which the action appealed was taken. The Board shall fix a reasonable time for the hearing of the appeal, giving public notice thereof, as well as due notice to the parties in interest, and decide the same within fifteen (15) days from the date of the hearing. Upon the hearing any person or party may appear and be heard in person or by agent or attorney.

With regards to this Ordinance, the Board of Appeals shall have the following powers:

(1) **Administrative Review.** Appeal of Decision by Arborist. To hear and decide appeals where the appellant alleges that there is error in any order, requirement, decision or change made by the Arborist or other administrative official in the refusal, carrying out or enforcement of any provision of this Ordinance.

(2) Variance from Tree Ordinance. To hear and decide applications for variance from the terms of this Ordinance, but only where by reason of exceptional narrowness, shallowness or shape of specific piece of property which at the time of adoption of this Ordinance was a lot of record; or where, by reason of exceptional topographic conditions, physiographic conditions, soil physiology, or other extraordinary or exceptional situation or conditions of a piece of property the strict application of the provisions of the Ordinance would result in exceptional difficulties or the exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without the substantial detriment to the public and without substantially impairing the intent and purpose of this Ordinance. Financial disadvantage to the property owner is no proof of hardship within the purpose of this ordinance and as further explained below. The Board shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

(a) Physical or topographical conditions. The particular physical surroundings, shape, or topographic conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this Ordinance were carried out.

(b) Relationship to other properties within the district. The conditions upon which the petition for variance is based would not be applicable, generally, to other property within the same district.

(c) Permitted activity. The variance will not authorize activities in a zoning district other than those permitted by this Ordinance.

(d) Financial implications. The variance is not based solely on financial returns.

(e) Self-created hardship. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this Ordinance.

(f) Special privilege. Granting the variance will not confer on this applicant any special privilege that is denied by this Ordinance to other lands, structures, or building in the same district.

(g) Minimum variance required. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(h) Effect on public welfare. Granting the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which property is located.

(i) Effect on adjacent properties. The variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

(j) Physiological conditions. The physical geology of or soil conditions on the site are such that the site has historically not sustained nor is capable of sustaining tree cover.

(k) Prohibited uses. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

(3) Conditions and Restrictions by the Board of Appeals. The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to reduce or minimize the injurious effect of such variation upon surrounding property and better carry out the general intent of this Ordinance. (as added by Ord. #____, Feb. 2001, and replaced by #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #13-197, Sept. 2013)

13-412. Provisions for Violating Mitigation. (1) Any person, firm, or corporation determined by the Arborist to be in violation of any provision of this Ordinance shall be issued a notice of such violation. This notice shall include in plain language the nature of the violation and the conditions, if any, required to remedy the violation as well as a time frame for compliance. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of record of the alleged violator/responsible party. The notice shall state that the responsible party is entitled to a hearing and shall contain, at a minimum, the following information:

(a) A brief statement that the responsible party is in violation of the Lakeland Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-19-101, and that the violation may be remedied at the expense of the responsible party and a lien placed against the property to secure the cost of mitigation of the violation;

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

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

(2) If the property owner of record fails or refuses to remedy the condition within the time frame specified by the notice, the City shall cause the condition to be remedied at a cost in conformity with reasonable standards and the cost thereof shall be assessed against the owner of the property and/or prosecution in a court of competent jurisdiction. Upon filing of the notice with the office of the register of deeds in Shelby County, the mitigation costs incurred by the City 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 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. (as added by Ord. #____, Feb. 2001, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #13-197, Sept. 2013)

13-413. Delay or Failure to Enforce. Delay or failure to enforce any portion of this ordinance does not constitute a waiver of the provisions of the ordinance in favor of any party or violation. (as added by Ord. #____, Feb. 2001, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #13-197, Sept. 2013)

13-414. Interference with City Natural Resources Board.¹ It shall be unlawful for any person to prevent, delay or interfere with the City Natural Resources Board, or any of its agents, while engaging in or about the planting, cultivating, mulching, pruning, spraying, or removing of any municipal trees, or trees on private grounds, as authorized by this ordinance. (as added by Ord. #____, Feb. 2001, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #13-197, Sept. 2013)

13-415. Severability. If any section, clause, provision, or portion of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole which other provisions shall remain in full force and effect, or any part thereof, other than the part so declared to be invalid. (as added by Ord. #____, Feb. 2001, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #13-197, Sept. 2013)

13-416. Provisions of Federal and State Law Excepted. No provision of this Ordinance shall contravene by term or application any existing or later enacted statute or regulation of the Federal or State governments, and in the event of said conflict, the provisions of the State and/or Federal regulations shall control. (as added by Ord. #____, Feb. 2001, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and Ord. #13-197, Sept. 2013)

13-417. -- 13-438. [Deleted.] (as added by Ord. #____, Feb. 2001, and replaced by Ord. #03-36, June 2003, Ord. #04-73, Dec. 2004, and deleted by Ord. #13-197, Sept. 2013)

¹Ord. #14-202, Feb. 2014 provides: "the Lakeland Municipal Parks and Recreation Advisory Board (PRB) shall serve as the Natural Resources Board.

TITLE 14

ZONING AND LAND USE CONTROL¹

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. SUBDIVISION REGULATIONS.
4. SIGNS.
5. MOBILE HOME PARKS.
6. MODEL HOMES.
7. FENCES AND WALLS.
8. EROSION AND SEDIMENT CONTROL.
9. LANDSCAPING AND SCREENING REQUIREMENTS.
10. SITE LIGHTING REQUIREMENTS.
11. ARCHITECTURAL DESIGN STANDARDS.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

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

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-3-101 there is hereby created a city planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members, of whom five (5) shall be citizen members appointed by the mayor, one (1) shall be the mayor or his designate and one (1) shall be a member of the board of commissioners selected by said board of commissioners to serve as its liaison. The liaison selected by the board of commissioners shall be a voting member of the planning commission. The individual term of the five (5) appointed members shall be for a period of three (3) years. Members may be re-appointed each year to provide continuity. Should an appointed member vacate his position, the mayor shall appoint a replacement. The member selected by the board of commissioners, including the present liaison member, shall serve at the pleasure of the board of commissioners. All members of the planning commission shall serve as such

¹ Municipal Code reference

Fee schedule; zoning, signs, etc.: appendix A

without compensation. It is recommended that some of the membership, whenever possible, be recognized practitioners in any of the following fields: architecture, engineering, urban planning, residential/commercial construction, or landscaping. (Ord. #00-02, April 2000, as amended by Ord. #00-11, Oct. 2000, and Ord. #14-201, March 2014)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with Tennessee Code Annotated, title 13 and Tennessee Code Annotated, § 6-54-133, and additionally, the following:

- (1) Exterior appearances of all proposed construction except, single family detached residential structures and associated accessory structures.
- (2) Construction, exterior alteration, moving, demolition or change in use of either land and/or buildings in commercial or historical districts and planned developmental proposals of any nature.
- (3) Signs, lighting and parking.
- (4) Fences and landscaping.
- (5) All subdivision entrance treatments.
- (6) Wireless transmission facilities. (1989 Code, § 11-102, as amended by Ord. #14-201, March 2014)

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 Lakeland shall be governed by the City of Lakeland Zoning Ordinance and any amendments thereto.¹

¹The City of Lakeland Zoning Ordinance, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

Amendments to the zoning map are of record in the office of the city recorder.

CHAPTER 3**SUBDIVISION REGULATIONS****SECTION**

14-301. Subdivision standards to be governed by subdivision regulations.

14-301. Subdivision standards to be governed by subdivision regulations. Subdivisions within the City of Lakeland shall be governed by subdivision regulations as adopted by the Lakeland Municipal Planning Commission, according to the provisions of Tennessee Code Annotated, § 13-4-303. (as replaced by Ord. #02-21, Dec. 2002)

CHAPTER 4

SIGNS

SECTION

- 14-401. Purposes, applicability and effect.
- 14-402. Definitions, interpretations, and computations.
- 14-403. Signs exempt from regulations.
- 14-404. Permitted signs: location, size, and number
- 14-405. Prohibited signs.
- 14-406. Design and construction standards.
- 14-407. Interstate corridor signs.
- 14-408. Administration and penalties.
- 14-409. Permits and fees.
- 14-410. Variances.
- 14-411. Inspection, removal and safety.
- 14-412. Nonconforming signs.
- 14-413. Severability.

14-401. Purposes, applicability and effect. (1) Purposes. The purposes of these regulations are: to encourage the effective use of signs as a means of communication in the city; to maintain and enhance the pleasing look of the city, which attracts to the city major events of regional interest; to preserve Lakeland as a community that is attractive to business; to improve pedestrian and traffic safety; to minimize the possible adverse effects of signs on nearby public and private property; and to implement relevant provisions of the comprehensive plan, as updated from time to time.

In that context, the city continuously invests in parks, landscaping, quality public facilities and other features and amenities that enhance the attractiveness of the community; a major purpose of this chapter is to ensure that signs in the community are compatible with the high quality image that the city seeks and in which the city continuously invests.

(2) Applicability. A sign may be erected, placed, established, painted, created or maintained in the city in conformance with the standards, procedures, exemptions and other requirements of this chapter. Signs exempt from regulations under § 14-403 of this chapter, shall not otherwise be subject to this chapter.

(3) Effect. The effect of this chapter, as more specifically set forth herein, is:

- (a) To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this chapter;

(b) To allow certain signs that are small, unobtrusive and incidental to the principal use of the respective property on which they are located, subject to the substantive requirements of this chapter, but without requirement for permits;

(c) To provide for temporary signs in limited circumstances;

(d) To prohibit all signs not expressly permitted by this chapter; and

(e) To provide for the enforcement of provisions of this chapter.

(4) Transitional provisions. (a) All holders of permits for signs issued legally prior to month, date, year may erect the signs which are the subject of such permits within the times allowed by such permits, and such signs shall then be treated as though they had been erected prior to month, date, year. However, such permits may not be extended or amended unless the sign that is the subject of such permit will conform to all of the requirements of this chapter.

(b) All violations of the sign regulations repealed by the adoption of this chapter shall remain violations of the ordinances of the city and all penalties and enforcement remedies set forth hereunder shall be available to the city as though the violation were a violation of this chapter. However, if the effect of this chapter is to make a sign that was formerly nonconforming become conforming, then enforcement action shall cease except to the extent of collecting penalties (other than removal of the sign) for violations that occurred prior to month, date, year. (1989 Code, § 4-201, as replaced by Ord. #03-41, June 2003, and Ord. #16-245, Oct. 2016)

14-402. Definitions, interpretations, and computations.

(1) Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(a) "Abandoned sign." A permitted sign that was erected on the property in conjunction with a particular use, that use having been subsequently discontinued for a period of thirty (30) days or more, or a permitted temporary sign for which the permit has expired.

(b) "Accessory building or structure." A structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use.

(c) "Animated sign." Any sign that uses movement, projection, or change of lighting or other electrical impulses to depict action or create a special effect or scene, except LED displays on restaurant menu boards. Variable display signs, beacons and moving message boards are considered to be animated signs under this article.

(d) "Attention-attracting device." Any device or object visible from any public right-of-way which is primarily designed to attract the

attention of the public to a business, institution, sign or activity through such means, including but not limited to illumination, color, size or location. Attention-attracting devices or objects oftentimes incorporate illumination, which may be stationary, moving, turning, blinking (including animation) or flashing. Attention-attracting devices may or may not convey a message and can include, but are not limited to, search lights, beacons, strobe lights, strings of lights, barber poles, internally illuminated translucent canopies or panels, electronically controlled message boards (time/temperature signs, gas price signs, public service announcements, etc.), banners, streamers, propellers and inflatable objects (including strings of balloons) or other device designed to attract attention. Approved traffic-control devices are not considered to be attention-attracting devices.

(e) "Awning." Any rigid or non-rigid material, such as metal, fabric, or flexible plastic that extends from the exterior wall of a building and is supported by or attached to a frame.

(f) "Awning sign." A sign located on an awning.

(g) "Background area." The entire area of a sign on which copy could be placed, as opposed to the copy area, where copy is in fact posted or painted (see also "face of sign").

(h) "Backlighted (back lit) sign." A sign consisting of a cabinet containing a light source surrounded by one (1) or more translucent faces.

(i) "Banner." Any sign printed or displayed upon cloth or any other flexible material, with or without frames or insignia.

(j) "Beacon." Any light with one (1) or more beams regardless of intensity directed into the atmosphere or directed at one (1) or more points not on the same site as the light source; also, any light with one (1) or more beams that rotate or move.

(k) "Building marker." Any sign indicating the name of a building and date and incidental information about its construction. Such sign typically is cut into a masonry surface or made of bronze or other permanent material.

(l) "Code enforcement official." A person designated by the city manager or manager's designee to administer and enforce the provisions of this chapter.

(m) "Building, principal." A building that contains the principal activity or use located on a lot.

(n) "Building sign." Any sign attached to any part of a building, as contrasted to a "ground sign."

(o) "Building wall." An exterior load-bearing or non-load-bearing vertical structure that encompasses the area between the final grade elevation and eaves of the building, and used to enclose the space within the building. A porch, balcony or stoop is part of the building structure and may be considered as a building wall.

(p) "Canopy." A roof structure constructed of rigid materials, including but not limited to, metal, wood, concrete, plastic, or glass, which is attached to and supported by a building, or which is free-standing and supported by columns, poles or braces extended from the ground. Unlike a marquee, a canopy generally has very limited vertical surface area; and unlike an awning, a canopy is generally supported by vertical elements rising from the ground at two (2) or more corners.

(q) "Canopy sign." Any sign that is a part of or attached to a structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a canopy sign.

(r) "Changeable copy sign (manual)." Any sign designed so that letters or numbers attached to the sign can be periodically changed manually to indicate a different message.

(s) "Changing sign (automatic)." A sign, such as an electronically or electrically controlled public service time, temperature and date sign, message center or reader board, where different copy changes are shown on the same lamp bank.

(t) "Channel letter." The outline of a letter, with metal sidewalls into which a neon tube, fiber optics or LEDs are placed. A channel letter's sign prevents the neon from having a run together appearance. The depth of the channel letter may vary. Variations include: open channel letter, reverse channel letter, and front and back lit letters.

(u) "Charitable/nonprofit event." An event which takes place entirely or partially within the City of Lakeland and the organization holding the event is classified as a nonprofit or charitable organization.

(v) "Commercial message." Any sign, wording, logo, or other representation, except for the actual name of the business, that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

(w) "Construction sign." Any sign bearing the names of contractors, architects, engineers, and the like, or advertising, promotions, price ranges and similar information, that is placed at a construction site that has received development plan approval from the City of Lakeland.

(x) "Copy." The wording and advertising display on a sign surface.

(y) "Copy area." The area in square feet of the smallest geometric figure that describes the area enclosed by the actual copy of the sign. For wall or canopy sign, the copy area limits refer to the message and the illuminated background.

(z) "Directory sign." A ground or building sign that lists tenants or occupants of a building or project, with unit numbers, arrows or other directional information.

(aa) "District." Any section of the city for which the zoning regulations governing the use of buildings and property, the height of buildings, the size of yards and the intensity of uses are uniform.

(bb) "Double-faced "V" type back to back signs." Those configurations or multiple sign structures, as those terms are commonly understood. In no instance shall these terms include two (2) or more signs which are not physically contiguous or connected by the same structure or cross-bracing or, in the case of the back-to-back or "V" type signs, located no more than three feet (3') apart at their point of connection.

(cc) "Erected." Attached, altered, built, constructed, reconstructed, enlarged or moved.

(dd) "Exempt sign." Any sign which is exempt from the permit requirements established herein.

(ee) "Existing sign." Any sign lawfully erected, mounted or displayed prior to adoption of this chapter.

(ff) "Face of sign." The entire area of sign on which copy could be placed; the area of a sign which is visible from one (1) direction as projected on a plane (see also "background area").

(gg) "Finished grade." The elevation of the land surface of a site after completion of all site preparation work.

(hh) "Flashing sign." A sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted light source. A sign, the illumination of which is not constant in intensity when in use, and which exhibits sudden and marked changes in lighting effects. A sign that automatically and periodically changes its message more than once per day shall be considered a flashing sign under this chapter. LED displays on restaurant menu boards are not considered flashing signs.

(ii) "Ground sign." A sign attached to the ground, as contrasted to a "building" sign.

(jj) "Ground sign, principal." A sign that is permanently attached to the ground and is the primary identifier of the property from adjacent public rights-of-way or private properties and meets the requirements of this chapter, but not including a ground sign that conforms to the definition of "incidental sign."

(kk) "Holiday decorations." Displays erected on a seasonal basis in observance of religious, national or state holidays, which are not intended to be permanent and contain no advertising material or commercial message.

(ll) "Identification sign." A sign bearing the address of the premises or name of occupant, but containing no logo or commercial message.

(mm) "Illegal sign." A sign that contravenes this chapter, or a nonconforming sign for which a permit required under a previous ordinance was not obtained.

(nn) "Illuminated sign (internally)." A sign that transmits light through its face or any part thereof.

(oo) "Incidental sign." A sign, generally informational, that has a purpose secondary to the use of the site on which it is located, such as "no parking," "entrance," "loading only," "telephone," and similar information and directives. No sign with a commercial message legible from a position off the site on which the sign is located shall be considered incidental.

(pp) "Institutional sign." A sign bearing a message related to an institutional use, where such sign is located on the same premises as such use.

(qq) "Institutional use." For the purpose of determining allowable signage, a primary or secondary school (public or private), college or university including extension facilities, religious institution, or other use operated by a public agency or nonprofit organization and permitted as a use in one (1) or more residential zoning districts of the city. A daycare facility shall be considered an institution regardless of ownership or operation.

(rr) "Interstate sign." A monument-style sign located on a parcel zoned commercial and also having no less than one thousand (1,000) linear feet of lot frontage upon directly upon the right-of-way of Interstate 40 and installed in accordance with § 14-407(1) of this chapter.

(ss) "Landscaped area." A portion of the site or property containing vegetation to exist after construction is completed. Landscaped areas include, but are not limited to, natural areas, buffers and screening measures, streetscapes, lawns and plantings.

(tt) "Lighting." The method or manner by which a sign is illuminated during the period from thirty (30) minutes prior to sundown and thirty (30) minutes after sunrise.

(uu) "Logo." The graphic or pictorial presentation of a message, including, but not limited to, the use of shapes, designs, decorations, emblems, trademarks, symbols or illustrations, or the superimposition of letters or numbers or any other use of graphics or images other than the sequential use of letters and numbers.

(vv) "Lot." A parcel of land whose boundaries have been established by some legal instrument, such as a recorded deed or plat, and which is recognized as a separate legal entity for purposes of transferring title. This term shall include any number of contiguous lots, or portions thereof, upon which a single principal building and its accessory buildings are located or intended to be located.

(ww) "Marquee." A roof-like structure that cantilevers from the wall of a building over its principal entrance that has no vertical supports other than the wall from which it cantilevers.

(xx) "Marquee sign." A sign attached to or mounted to or on top of a marquee.

(yy) "Menu board." An accessory sign providing items and prices associated with a drive-thru window.

(zz) "Model home sign." A temporary sign designating a furnished model home.

(aaa) "Neon." A tasteless, colorless, inert gas - When an electric current is discharged through it, neon produces a reddish-orange glow. Neon is also used synonymously with a type of luminous tube sign where a glass tube is bent to a desired shape, fitted with an electrode at each end, the atmosphere is pumped and burned out, and the resulting vacuum is filled with a rare gas, such as neon, helium, argon, mercury vapor or a combination of gases.

(bbb) "New project real estate sign." A sign announcing space available for sale, rent or lease within a new project or a project having undergone renovation efforts equal to twenty-five percent (25%) of its value.

(ccc) "Nonconforming sign." A sign erected or otherwise in use that met the requirements of the city at time it was erected or otherwise put in use, but does not conform to the requirements of this chapter.

(ddd) "Off-premise sign (off-site sign)." A sign that directs attention to a business, commodity, or service offered at a location other than the premises on which the sign is erected. Any sign that is not an on-premise sign as defined herein shall be considered an off-premise sign.

(eee) "On-premise sign (on-site sign)." A sign that directs attention to a business, commodity or service located or offered on the premises on which the sign is erected. For the purpose of this chapter, common access easements, common reserved areas or common open space shall be considered.

(fff) "Opaque." Not clear or translucent--not allowing light to show through.

(ggg) "Open channel letter." A channel letter which has no face and in which the neon tubing is visible.

(hhh) "Owner." A person recorded as such on official records and including duly authorized agent or notary, a purchaser, a devisee, judiciary; any person having a vested or contingent interest in the property in question.

(iii) "Pennant." Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, which is suspended from a rope, wire, string or pole, usually in series, and which is designed to move in the wind.

(jjj) "Person." Any association, company, corporation, firm, organization or partnership, singular or plural, of any kind.

(kkk) "Pole sign." A sign mounted upon the ground but which by reason of height, width or other characteristics does not qualify as a "principal ground sign," characterized by a free standing exposed frame, mast or pole and not attached to any building.

(lll) "Political sign." A sign attracting attention to political candidates or issues.

(mmm) "Portable sign." Any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs made as A-frames or T-frames; balloons used as signs; umbrellas used for commercial messages; and signs attached to or painted on vehicles or trailers parked and visible from the public right-of-way.

(nnn) "Portico." A porch or walkway, open to the outside air that is covered by a roof supported by columns or pillars, typically leading to the entrance of a building. A portico is considered a "canopy" for purposes of determining signage.

(ooo) "Poster box." A box installed on a wall for the purpose of displaying posters of shows at a theater.

(ppp) "Premises." An area of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

(qqq) "Prohibited sign." Any sign, other than nonconforming sign, which does not comply with this chapter or is specifically restricted herein.

(rrr) "Project." A commercial or mixed-use center containing a combination of retail, office, and/or other uses located on a single parcel or multiple parcels. A project is included within a single plat, site plan, or planned development application.

(sss) "Project sign." A sign identifying a multi-tenant property.

(ttt) "Projecting sign." Any sign attached to a building wall extending laterally more than eighteen inches (18") from the face of such wall.

(uuu) "Public event banner." Any sign of lightweight fabric or similar material, except for national, state, municipal or official flags of any institution, that is mounted to a pole or building by a supporting frame at two (2) or more edges.

(vvv) "Raceway." A metal structure enclosing the electric components of a sign.

(www) "Real estate sign." A sign advertising real property for sale or for lease.

(xxx) "Real estate information tube/box." A box or tube attached to one end of the temporary real estate sign for the purpose of holding a brochure whose information relates to the subject property. The dimensions of the box shall be a maximum ten inches by fourteen inches by three inches (14" x 3"), and the tube shall be a maximum twelve inch by three inch (12" x 3") diameter. The box and the tube shall be black or white in color, or translucent. Advertising on the exterior of the box or tube shall be prohibited.

(yyy) "Real estate window signs." A sign located inside a window offered for sale, rent, or lease for the purpose of announcing such.

(zzz) "Residential sign." Any sign located in a district zoned for residential uses that contains no commercial message.

(aaaa) "Reverse channel letter sign." A sign composed of channel letters which have face and sides, but no back and are pegged out from a background surface (wall). When the light source inside the letter is lit, it produces a halo-effect around the letter.

(bbbb) "Right-of-way (ROW)." The proposed right-of-way as indicated on the official city major street plan and/or as set forth in the city subdivision ordinance.

(cccc) "Roof line." The highest horizontal point of the wall visible to the public, excluding any architectural feature which extends above such apparent horizontal roof line if such feature is fully enclosed and considered an integral part of the occupied space such as an atrium or high ceiling.

(dddd) "Roof sign." A sign erected wholly or partially above the roofline.

(eeee) "Rotating sign." Any sign or portion of a sign that moves in a revolving or similar manner.

(ffff) "Seasonal or special occasion sign." A sign that is not permanently attached and is limited to a specific activity or in the celebration of holidays or other special events for a specified period of time.

(gggg) "Setback." A line running parallel to the front, side and rear property lines that establish the minimum distance the principal building and related appurtenances including parking, signage, and accessory buildings, must be from each respective property line measured in feet.

(hhhh) "Shopping center." A building or group of buildings, either connected or free-standing, under unified or multiple ownership of land parcels, that is designed and has been approved by the City of Lakeland as a shopping center with common parking, pedestrian movement, common ingress and egress, and used or intended to be used primarily for the retail sale of goods and services to the public.

(iiii) "Shopping center sign." A ground mounted sign that may contain the name of the shopping center and/or individual tenants.

(jjj) "Sign." Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise, which is exposed to the view of potential clients or customers and/or the general public, and is located on public or private property, inside or outside of buildings, or to communicate information of any kind to the public, except the following:

(i) Merchandise temporarily displayed in a show window available for sale on the premises and that does not include flashing, neon, or colored lights;

(ii) Decorative devices or emblems as may be displayed on a residential mailbox.

(kkk) "Sign plan." A plan prepared to scale conforming to submittal requirements contained in this chapter that depict construction details for all types of signage proposed for installation on a parcel.

(lll) "Sign structure." Any structure that supports or has supported or is capable of supporting a sign, including decorative cover.

(mmm) "Site." A lot, tract or parcel of land considered as one (1) land-unit for purposes of this chapter. For a single-family residence, the site shall be the subdivided lot on which it is located. For multifamily projects, the site shall be all land occupied by the buildings in the project and adjoining such property and under common ownership with it. For vacant land, the site shall be all of the adjoining vacant land under single ownership. For single-occupancy, non-residential properties, the site shall be the subdivided lot that is occupied. For multiple-occupancy properties, the site shall be all land included under the original "site plan" or "subdivision plan" approved by the City of Lakeland.

(nnn) "Site plan." A scaled graphic schematic of a development site indicating the location of buildings, walkways, signage, lighting, parking, drainage facilities, topography and landscaping, as they are to appear upon the completion of development. Site plans may be required to contain such other information as may be deemed necessary by the design review commission to insure proper development of the site.

(ooo) "Site triangle (or horizontal sight distance)." The horizontal and vertical areas at the intersections of streets and/or driveways which must remain unobstructed in order to ensure that drivers can see traffic and pedestrians around the corner of the intersection, entrance or driveway.

(ppp) "Snipe sign." Any sign that is affixed by any means to trees, utility poles, fences or other objects, where the message appearing thereon is not applicable to the present use of the premises upon which the sign is located.

(qqqq) "Street frontage." The distance for which a lot line adjoins a public or private street from one lot line intersecting said street to the furthest lot line intersecting the same street.

(rrrr) "Subdivision entrance sign." A sign that gives the name of a residential or non-residential subdivision or multifamily development.

(ssss) "Suspended sign." A sign that is suspended from and supported by the underside of a horizontal plane surface.

(tttt) "Tag sign." Secondary signs that are descriptive of goods and services available on the premises such as "Deli/Bakery" and "Open 24 Hours."

(uuuu) "Temporary sign." Any sign that used only temporarily and sign is not permanent mounted, and that is allowed only for a designated time period.

(vvvv) "Traffic sign." A sign indicating federal, state, or municipal regulations for vehicular or pedestrian movement.

(wwww) "Translucent." The property of a material to allow the passage of some light through it without being transparent.

(xxxx) "Two-sided sign or two sign faces." Any sign constructed on a single set of supports with messages visible on either side, or a "V" type sign with a common support in the center of the "V."

(yyyy) "Use." The purpose for which a building, lot, sign or other structure is arranged, intended, designed, occupied or maintained.

(zzzz) "Wall, exterior." A vertical, structural component of a building which encloses habitable or usable space; a parapet extending not more than twelve inches (12") above a flat roof shall be considered part of the exterior wall for purposes of determining signage.

(aaaaa) "Wall sign." Any sign painted on or attached to and extending not more than twelve inches (12") inches from an exterior wall in a parallel manner.

(bbbbb) "Windblown device." Any banner, spinner, streamer, propeller, disc, moored blimp, gas balloon or flag (which is not of local, state, federal, corporate, nonprofit or religious origin) that is designed to inform or attract attention, whether or not such device carries a message, all or part of which is set in motion by wind, mechanical, electrical or any other means.

(cccc) "Window sign." Any sign that is applied to the inside or outside of glassed areas of a building or within one foot (1') of the window.

(2) Interpretations. Words and phrases used in this chapter shall have the meanings set forth in this article. Words and phrases not defined in this chapter, but defined elsewhere in the city code shall be given the meanings set forth there. Principles for computing sign area and sign height are given in the next section. All words and phrases shall be given their common, ordinary meanings, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the

interpretation of this chapter. Illustrations included in the code shall be used in interpreting the relevant provisions, but where the text conflicts with an illustration the text shall control.

(3) Computations. (a) Area computation of individual signs: The area of a sign comprised of individual letters or elements attached to a building wall is determined by calculating the area of the smallest geometric figure (e.g. square, rectangle, circle, polygon, etc.) that can be drawn around the letters and/or elements.

Signs consisting of individual letters and/or elements will be measured as one (1) sign when the distance between the letters and/or elements is less than the largest dimension of the largest sign letter.

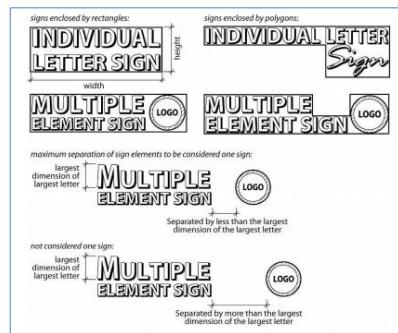


Figure 1: Area Computation of Individual Signs

Computation of Sign of

(b) Area computation of multi-faced signs: Where the sign faces of a double-faced sign are parallel, only one (1) display face shall be measured in computing sign area. If the two (2) faces of a double-faced sign are of unequal area, the area of the sign shall be the area of the larger face. In all other cases, the areas of all faces of a multi-faced sign shall be added together to compute the area of the sign. Sign area of multi-faced signs is calculated based on the principle that all sign elements that can be seen at one (1) time or from one (1) vantage point should be considered in measuring that side of the sign.

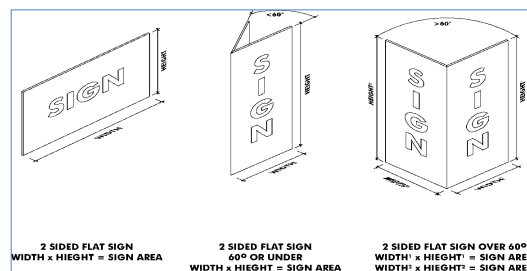


Figure 2: Area Computation of Multi-Faced Signs

(c) Sign height computation: The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases where the normal grade is below grade at street level, sign heights shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public or private street.

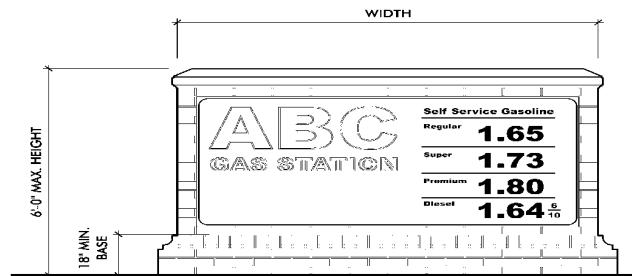


Figure 3: Sign Height Computation

(d) Building frontage: Building frontage shall mean the horizontal length of a building on the side with its principal entrance. If that side is a straight wall, then the building frontage shall be the length of the wall. If the side is not a straight wall, the building frontage shall be the horizontal distance from the corner at one (1) end of the side of the building with the principal entrance to the other corner on the same side of the building; where that side of the building is concave, then the measurement shall be made in a straight line from corner to project in front of the front corners, then the measurement shall be made as the shortest distance between two (2) lines projected from the two (2) front corners of the building, with such lines parallel to each other and as close as practicable to perpendicular to the front of the building.

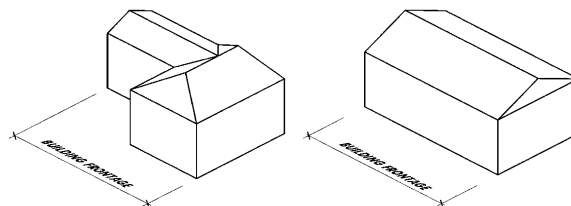


Figure 4: Building Frontage Measurements

(1989 Code, § 4-202, as amended by Ord. #192, Dec. 1996, and Ord. #193, Dec. 1996, replaced by Ord. #03-41, June 2003, amended by Ord. #04-59, March 2004,

Ord. #10-145, March 2010, and Ord. # 12-177, Aug. 2012, and replaced by Ord. #16-245, Oct. 2016)

14-403. Signs exempt from regulations. The following signs shall be exempt from regulations under this chapter:

(1) Any official or public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance, by a public utility company or by order of a court of competent jurisdiction;

(2) Traffic signs on private property, such as Stop, Yield and similar signs, which meet Department of Transportation and Manual on Uniform Traffic Control Devices standards and contain no commercial message;

(3) Government signs for the control and direction of traffic and other regulatory purposes;

(4) Historic markers recognized by local, state and/or federal authorities;

(5) Memorial plaques, cornerstones, historical tables and the like;

(6) Address signs denoting the numerical address designation of the premises on which the sign is placed not to exceed seventy-two (72) square inches in surface area.

(7) Any sign inside a building, not attached to a window or door, that is not visible from off the site on which it is located;

(8) Decals, numerals, names, addresses, hours of operation, credit information, etc., attached to a door or window and all of which occupy a total surface area not to exceed three (3) square feet; provided, however, street numbers and addresses shall not be included in calculating the total surface area;

(9) Any sign inside an athletic field or other enclosed outdoor space, where the sign is not legible from more than three feet (3') beyond the lot line of the site on which it is located;

(10) Hand carried signs;

(11) Signs affixed to vehicles and trailers used in the normal transport of goods or persons where the sign is incidental and accessory to the primary use of the vehicle or trailer.

(12) Works of art with no commercial message; and

(13) Special event signs for community events sponsored in whole or part by the City of Lakeland.

(14) Incidental signs on the interior of a property not generally readable from off the property.

(15) Window signs not exceeding twenty-five percent (25%) up to a maximum of six (6) square feet of the transparent portion of a commercial building facade. (1989 Code, § 4-203, as replaced by Ord. #03-41, June 2003, amended by Ord. #04-59, March 2004, and replaced by Ord. #16-245, Oct. 2016)

14-404. Permitted signs: location, size and number. Conditions.

(1) **Building marker.** Building marker signs shall be allowed provided that:

- (a) Such signs shall not exceed three (3) square feet in sign area;
- (b) Such signs shall contain no logo or commercial message;
- (c) Such signs shall be made of permanent material, such as bronze or masonry, and be permanently affixed to the building wall; and
- (d) Such signs shall not exceed one on any single building.

(2) **Changeable copy sign.** Changeable copy signs shall be allowed only at schools, public performing arts and recreation facilities, libraries, theater, and places of worship, provided that:

- (a) Only one (1) double-faced ground mounted sign is permitted on any parcel occupied by a school, public performing arts and recreation facility, library or place of worship;
- (b) The sign must contain a black background with white letters of sufficient size to be viewed from the public right-of-way;
- (c) Such signs shall not exceed seventy-two inches (72") in height measured from finished grade;
- (d) Such signs shall not exceed thirty-two (32) square feet in sign area per side;
- (e) Such signs shall be set back a minimum of twenty feet (20') from the edge of the public street right-of-way;
- (f) Such signs shall be oriented to the middle of the front property line unless in conflict with an entrance but, in no case shall be placed within fifteen feet (15') of a side property line oriented perpendicular to the front property line
- (g) The sign shall not be internally illuminated but, may be externally illuminated using a single white light source mounted on the ground with appropriate shields to minimize glare;
- (h) The sign shall be placed upon a masonry base a minimum of eighteen inches (18") in height measured from finished grade;
- (i) The base surrounding the sign shall be landscaped with a combination of evergreen plantings and seasonal colors and such landscape areas shall be irrigated;
- (j) For a single-occupant school, performing arts and recreation facility, library, or place of worship, only one (1) changeable copy sign shall be permitted and shall only be permitted in lieu of the principal ground sign for the facility;
- (k) For a single-occupant school, performing arts and recreation facility, or place of worship that installs a changeable copy sign, no other wall sign or principal ground sign shall be permitted on the premises unless otherwise provided in this chapter;

(l) A service station may use up to one-half (1/2) of the area of its principal ground sign or one-half (1/2) of the area of any wall sign for changeable copy displaying current fuel prices; and,

(m) A theater shall be permitted to have one (1) poster box for each theater viewing room within the theater, subject to total sign area limits applicable to all wall signs, provided that:

(i) Lighting shall be backlighted or internally illuminated;

(ii) Such boxes shall not exceed thirty-six by fifty-four inches (36" x 54") each in area;

(iii) The top of such boxes shall not be more than eight feet (8') above the ground; and

(iv) Such boxes shall be permanently mounted to a wall.

(3) Construction sign. Construction signs shall be allowed provided that:

(a) For non-residential, institutional or multifamily residential buildings, in the same location and subject to the same size and other conditions applicable to principal ground sign. Such sign shall be removed no later than the date of the issuance of the certificate of occupancy for the premises or any part thereof.

(b) For new single-family residences, a single sign of not more than thirty-six inches (36") in height measured from finished grade and four (4) square feet in sign area shall be permitted. Such sign shall be removed upon issuance of a final inspection and/or certificate of occupancy.

(c) In single-family residential districts, including planned unit developments allowing single-family residences, a single construction ground sign shall be permitted as an accessory use to a subdivision real estate sales office, as long as such office is permitted in the zoning ordinance and actually used. Such sign shall not exceed sixteen (16) square feet in sign area and forty-eight inches (48") in height measured from finished grade.

(d) Construction signs shall not be permitted on existing single-family residences, except if providing directional or safety related information placed on the single-family residential site, subject to the conditions applicable to "residential sign," including the prohibition of commercial messages, a height limit of forty-eight inches (48") measured at finished grade and an area limit of four (4) square feet per side.

(4) Directory sign. Directory ground-mounted signs not visible from the public right-of-way shall be allowed where a particular building or structure includes more than six (6) tenants and a minimum gross floor area of one hundred thousand (100,000) square feet, provided that:

(a) Directory signs in shopping centers may be located near entrances to parking areas, but not less than one hundred feet (100') from

any public right-of-way, and at principal intersections within the site, where such intersections are not less than one hundred feet (100') from any public right-of-way.

(b) Such signs shall not exceed sixteen (16) square feet in area and forty-eight inches (48") in height measured from finished grade, subject to the total sign area requirements for ground signs allowed for the development.

(c) Such signs may contain logos or business names with arrows or other directional information but, shall not contain any commercial message.

(d) Such sign shall not be separately illuminated.

(5) Flag and flag pole. Flags and flagpoles shall be allowed, provided that:

(a) Sites not showing flags and flagpoles on site plans. On a non-residential or multi-family residential site not showing flags on an approved site plan, there shall be no more than three (3) flagpoles and two (2) flags per pole. Poles for such flags shall be located on the principal building wall on the site or within twenty feet (20') of the main building entrance. No flag shall bear a commercial message;

(b) Sites showing flags and flagpoles on site plans and sign plan. Flags may be included on a site plan and located as shown on that plan, provided that:

(i) Flagpoles shall be limited to three (3) per principal building or multi-family residential complex;

(ii) No flag shall bear a commercial message; and

(iii) Flagpoles shall be not less than fifty feet (50') from a public or private street right-of-way;

(c) Flags on single-family residential lots. There shall be not more than one (1) flagpole and two (2) flags per pole on any single-family residential lot. No flag shall bear a commercial message. No sign on such lot may bear a commercial message;

(d) Flag size - all sites. No flag shall exceed five feet by eight feet (5' x 8') in size; and

(e) Flagpole height - all sites. No flagpole shall exceed twenty-five feet (25') in height measured from finished grade.

(6) Identification sign. Identification signs shall be allowed provided that:

(a) Such signs shall be limited to one (1) per principal building entrance;

(b) Such signs shall not exceed three (3) square feet in sign area;

(c) Such signs shall contain no logo or commercial message; and,

(d) Such signs shall be affixed to a building wall.

(7) Incidental sign. Incidental signs shall be allowed provided that they contain no commercial message or logo and do not exceed one (1) square foot in area placed a minimum of ten feet (10') from the front property line, except that signs providing notice that cars parked illegally may be towed may comply with provisions of applicable state and federal law where such provisions may require that such notice be placed on larger sign placards. Incidental ground signs shall not exceed twenty-four inches (24") in height measured from finished grade.

(8) Menu board. Menu boards shall be allowed only as an accessory use to a restaurant permitted to have a drive-thru window under the zoning ordinance provided that:

(a) Such sign shall not exceed forty (40) square feet in sign area and seventy-two inches (72") in height measured from finished grade;

(b) Such sign shall not be legible or visible from the public right-of-way;

(c) The color of such sign shall be neutral or earth tone and or have similar material treatments as the principal structure;

(d) Such sign shall have placed around the back side evergreen shrubbery and trees sufficient to screen the sign from public view along the right-of-way;

(e) Such sign may have changeable copy (manual and/or electronic); and

(f) Such sign may be internally or directly illuminated.

(9) Model home:

(a) Such signs shall be limited to one (1) on any single-family parcel;

(b) Such sign shall not exceed seventy-two inches (72") in height measured from finished grade including a decorative cap;

(c) The allowable sign area shall be sixteen (16) square feet and the sign shall not exceed seventy-two inches (72") in height measured from finished grade;

(d) The sign may be double-sided and shall be attached to two (2) separate decorative posts white in color located not more than forty-eight (48") apart on center;

(e) Such sign shall not contain a commercial message;

(f) The base of the sign shall be planted with evergreen shrubbery and seasonal colors in an area equivalent to the total sign area.



Figure 5: Model Home Sign

(10) Political sign. Political signs shall be allowed provided that:

(a) Such signs shall be limited to not more than one (1) per candidate or issue on any single occupied parcel except polling places on election day where signage may be placed in accordance with election commission guidelines for signage at polling places;

(b) Such signs shall be located on private property, with permission of the property owner;

(c) Such signs shall not be placed closer than fifteen feet (15') from the edge of pavement or five feet (5') behind a sidewalk, whichever is greater;

(d) Such signs shall not be erected or placed in such a manner that they interfere with, obstruct, or confuse or mislead vehicular or pedestrian traffic;

(e) No such sign shall be erected or displayed earlier than thirty (30) days before the election including early voting to which it relates, nor later than three (3) days following such election;

(f) Such signs shall not be located in the public right-of-way or on other public property or on any public utility pole or tree, except within specified proximity of polling places on election day, under the rules established by the Shelby County Board of Election;

(g) No signs will be allowed at polling places earlier than one (1) day before an election or early voting period and must be removed not later than one (1) day after said election or early voting period. For signs placed at polling places no permit or bond will be required, but requirements of all other sections of this chapter shall apply;

(h) Such signs shall not exceed five (5) square feet in area per side and forty-eight inches (48") in height;

(i) Such signs erected or maintained not in accordance with the provisions of this subsection shall be the responsibility of the owner of the property upon which the sign is located, shall be deemed a public nuisance, and may be abated, without notice, by such property owner, the

candidate, or person advocating the vote described in the sign, or the code enforcement official or his/her designee;

(11) Principal ground sign. Principal ground signs shall be allowed, provided that:

(a) Such signs shall not exceed seventy-two inches (72") in height measured from finished grade;

(b) Such signs shall not exceed thirty-two (32) square feet in sign area per side;

(c) Such signs shall be set back a minimum of ten feet (10') from the edge of the public street right-of-way;

(d) Such signs shall be oriented to the middle of the front property line unless in conflict with an entrance but, in no case shall be placed within fifteen feet (15') of a side property line oriented perpendicular to the front property line;

(e) The base of the sign shall be landscaped with evergreen and deciduous shrubbery and seasonal colors on each side of the sign in an area equivalent to the total sign area of each face of the sign. All landscaping shall be irrigated.

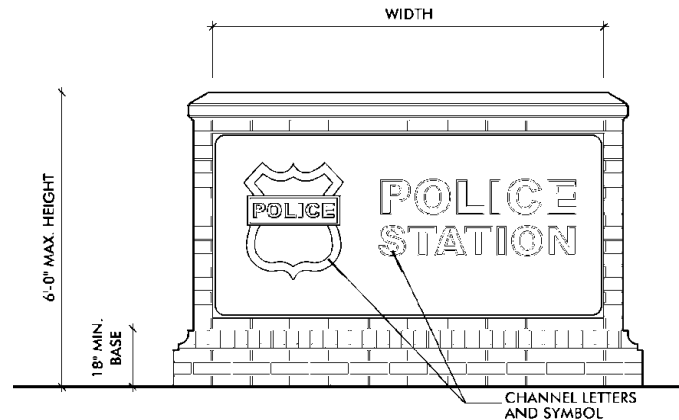


Figure 6: Principal Ground Sign

(f) Both sides of the two (2) side ground sign shall be identical in design and content;

(g) The sign shall be placed upon a masonry base a minimum of eighteen inches (18") in height measured from finished grade;

(h) A sign placed in a residential district shall not be internally illuminated. The sign may be illuminated using backlighting or reverse channel lettering creating a halo-effect or direct lighting from a ground-mounted light fixture not to exceed one hundred (100) watts screened from public view with evergreen plant materials;

(i) For a single-occupant property, only one (1) principal ground sign shall be permitted unless otherwise provided in this chapter;

(j) For a multi-occupant project, there shall be only one (1) ground sign for the entire project plus one (1) additional principal ground sign for street frontage adjacent to a corner side yard on a secondary street, provided that the frontage on that street is at least one hundred fifty feet (150') in length and that an actual entrance to the project is permitted and exists prior to installation of the sign and the secondary principal ground sign conforms to the area, height and location requirements of this chapter for a principal ground sign;

(12) Real estate sign, except single-family residential. Real estate signs shall be allowed provided that:

(a) On single-family residential lots, one (1) residential sign shall be permitted as more fully described in item (13) below.

(b) On multifamily residential projects and non-residential developments (i.e., commercial, office, industrial), one (1) real estate sign shall be permitted, provided that:

(i) Such sign shall not exceed 16 square feet per side in area and seventy-two inches (72") in height measured from finished grade;

(ii) There shall be not more than (1) real estate sign on any site except where the parcel has more than one thousand (1,000) linear feet of road frontage whereby one (1) additional sign may be placed a minimum distance of five hundred feet (500') from the other real estate sign;

(iii) Such sign shall not be posted in public rights-of-way or on any private common area;

(iv) Such signs shall be set back from the front property line a minimum of twenty feet (20');

(v) Such signs shall carry no commercial message other than information on the lease or sale of the premises on which the sign is displayed; and

(vi) Such signs shall not advertise or identify the conducting of a permitted non-residential use.

(13) Residential real estate sign, single-family residential. Residential signs shall be allowed provided that:

(a) Such signs shall not exceed nine (9) square feet per side in area and forty-eight inches (48") in height measured from finished grade;

(b) There shall be not more than one (1) residential sign on any site containing only one (1) dwelling unit;

(c) Such signs shall not be posted in public rights-of-way or on any private common area;

(d) Such signs shall be setback from the front property line facing the public right-of-way a minimum of fifteen feet (15');

(e) Such signs shall carry no commercial message other than information on the lease or sale of the premises on which the sign is displayed; and,

(f) Such signs shall not advertise or identify the conducting of a permitted home occupation in a residential district.

(14) Subdivision entry sign. Ground-mounted signs integrated into the entrance treatment (i.e., entrance wall) with the name of the subdivision or planned unit development may be allowed on one (1) or both sides of each principal entrance. Subdivision entry signs shall be located on private property and shall not obstruct any public right-of-way or easement. Where located at the side of the road on private property, there may be one (1) sign located on one (1) side of the entrance road or on both sides of the entrance road at each principal entrance to the subdivision or planned unit development, provided that:

(a) Such signs shall not exceed thirty-two (32) square feet in sign area per entry sign;

(b) Such sign shall not exceed seventy-two inches (72") in height measured from finished grade, unless integrated into a wall or column, in which case it shall not exceed the height of the wall or column; and

(c) Such sign shall contain no commercial message.

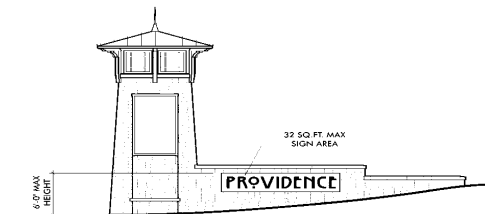


Figure 7: Subdivision Entrance Sign

(15) Temporary signs. Signs for temporary uses, special events or the opening of businesses, as expressly permitted under this chapter, provided that:

(a) Such signs shall not be located on public property:

(i) Such sign, if a ground-mounted sign, shall be placed a minimum of ten feet (10') from the front property line and shall not be placed in such a manner as to obstruct visibility;

(ii) Sign permits shall be limited to duration of thirty (30) days or, for a temporary use or for the period of time stated on the temporary use permit. Permitted duration shall not to exceed thirty (30) days in a calendar year;

(iii) No more than six (6) temporary sign permit shall be issued within a calendar year for the same business in the same location;

(iv) Sign permits for new businesses shall be issued only upon the initial opening of a business for a period that shall end not later than thirty (30) days after issuance of the first business license for that business in that location. New business temporary signs do not count towards the annual permit allotment specified in item (iii) above;

(v) Temporary signs, when installed as a wall-mounted sign, shall be attached to and parallel with a wall of the building on which wall signs are permitted and shall not exceed thirty-two (32) square feet of surface area;

(vi) Such signs may be made of cloth or canvas and are not subject to the construction and installation requirements otherwise applicable in this chapter;

(vii) Where a temporary use permit specifically authorizes the use of the temporary ground sign, such sign, except feather flags, shall not exceed forty-eight (48") inches in height measured from finished grade. Feather flags shall not exceed eight feet (8') in height measured from finished grade. All temporary ground signs shall not exceed thirty-two (32) square feet in sign area per side;

(viii) Temporary signs shall not require the review and approval of the design review commission prior to issuance of a sign permit by the City of Lakeland;

(ix) Supporting structures for temporary signs shall be removed when no temporary sign is present.

(x) For single occupancy buildings, temporary signs shall not be allowed if a permanent ground sign does not exist on the property.

(b) Not-for-profit special events, such as those associated with a civic, philanthropic and educational purpose, shall be allowed a temporary sign, regardless of whether a temporary use permit is required and whether the use is specifically permitted under this chapter, provided that:

(i) Only one (1) such sign shall be allowed per property per event;

(ii) Such sign shall be located only on private property or on the public property where the event will be held;

(iii) Such sign, if a ground sign, shall be limited to forty eight inches (48") in height measured from finish grade and thirty-two (32) square feet in sign area per side;

(iv) Such sign, if attached to a wall, shall be limited to thirty-two (32) square feet in sign area and securely attached on all corners;

(v) Such sign shall be erected no sooner than thirty (30) days preceding the event and shall be removed no later than one (1) day following the conclusion of the event; and,

(vi) Temporary signs for non-profit special events shall not require the review and approval of the design review commission prior to issuance of a sign permit by the City of Lakeland.

(16) Wall Sign, nonresidential. Wall signs shall be allowed on nonresidential properties that are proportionate to the scale and massing of the building upon which the sign is attached, provided that:

(a) The total area of all wall signs on a building shall not exceed one (1) square foot in area for each linear foot of building frontage; provided, however, that in the case of a primary building or structure located more than one hundred feet (100') from the front property line the design review commission may allow an increase in the permitted sign area at a ratio equivalent to the total distance of the primary building from the front property line divided by one hundred (100) for each linear foot of building frontage not to exceed a maximum of one and one-half (1.5) square feet in area for each one (1) linear foot of building frontage unless otherwise restricted. For example, a building located one hundred thirty-eight feet (138') from the front property line may be permitted to have a ratio of 1.38 square feet of sign area for each linear foot of building frontage.

In the case of a single occupant building that is also permitted to have one or more principal ground signs, the total area of all wall signs on a building shall not exceed one-half (1/2) square foot in sign area for each linear foot of building frontage regardless of the distance from the building or structure to the front property line; provided, however, the design review commission may allow an increase in allowable sign area in consideration of scale and massing of front facade, not to exceed a maximum of one (1) square foot in sign area for each one (1) linear foot of building frontage.

(b) The total area of all wall signs on a particular wall or a section of wall shall not exceed the wall sign area as prescribed elsewhere in this chapter;

(c) Such signs shall be located only on principal buildings and shall not be placed on accessory buildings;

(d) No wall sign shall project above the highest point of the building wall on the same side of the building as the sign;



Figure 8: Wall Sign, Non-Residential

(e) On a single occupancy building, all signage or message elements, except for poster boxes, logos, and wall signs on theaters on any single wall, shall be considered parts of the same sign and shall be measured as prescribed elsewhere in this chapter;

(f) A single-occupant building shall be limited to one (1) wall sign unless otherwise provided in this chapter;

(g) A single-occupant building shall be limited to one (1) wall sign installed facing a public right-of-way unless otherwise provided in this chapter;

(h) A single-occupant building located on a lot with multiple frontage upon a public right-of-way may be permitted to have one (1) wall sign installed facing each public right-of-way;

(i) On a multi-occupant building except for multi-tenant convenience centers as provided for in § 14-404(18)(d) of this chapter, each occupant with a primary outside entrance serving the general public may have one (1) wall sign. Corner tenants with a separate outside entrance serving the general public as a point of ingress and egress that is on a different exterior wall from the primary entrance for which the tenant space is accessed may be allowed one (1) additional wall sign centered over the secondary entrance subject to review and approval by the design review commission;

(j) On a multi-occupancy building serving primarily office uses, there may be signs on only one (1) wall of the building; provided, however, that in the case of multiple occupancy building containing more than one hundred fifty thousand (150,000) square feet of gross floor area and more than seven (7) tenants facing upon a public right-of-way, tenants within the multiple occupancy building may be permitted subject to approval of the design review commission to have one (1) exterior wall sign not to exceed fifty (50) square feet of sign area to be installed on the exterior wall of the multiple occupancy building;

(k) Conditions above shall not apply to changeable copy signs for a convenience store vending gasoline products or a theater, which shall be subject to the requirements of (b), above;

(l) Multi-occupant buildings containing more than one (1) tenant wall sign shall have a sign policy that outlines the colors, font, illumination, size and location of all wall-mounted signs. Wall signage should complement the principal ground sign.

(17) Wall sign, residential/institutional:

(a) Single-family residential units (either attached or detached) including permitted professional home occupations in residential zoning districts or planned unit developments designated for such use shall be permitted one (1) wall sign, provided that:

(i) Such sign shall not exceed two (2) square feet in sign area;

(ii) Such sign shall not be separately illuminated; and

(iii) Such sign shall not contain any commercial message.

(b) Institutional uses located in residential zoning districts and planned unit developments designated for such use, shall be permitted one (1) wall sign per public entrance, provided that:

(i) Such sign shall not exceed three (3) square feet in sign area; and,

(ii) Each sign may be illuminated only by direct external illumination.

(18) Gasoline trade signs. Petroleum product pumps and dispensers that are within view of the public right-of-way shall be permitted to display only that information required by law along with brand name and type of product being dispensed. No other advertising shall be displayed on the pumps, temporary or permanent.

(a) Principal ground sign. Premises that dispense retail bulk petroleum products by pump shall be allowed to display the changeable copy pricing of such products within a single principal ground sign or wall sign. The principal ground sign may also contain the name and/or logo of the principal tenant; provided, however, said principal ground sign or wall sign shall conform to the design requirements contained in Table 2 of this chapter (see § 14-404).

(b) Canopy sign. When an enclosed principal structure exists, all canopy signs shall be calculated and deducted from the total allowable wall sign area. In the absence of an enclosed principal structure, for the purposes of this subsection, canopy signage may be allowed in addition to the permitted principle ground sign. With the exception of the measurable area for placement of the canopy sign, no internally illuminated or back lighting of the outside canopy area or canopy roofline shall be permitted. Only one (1) canopy sign not exceeding a total sign

area of ten (10) square feet shall be permitted on one (1) canopy facade regardless of the number of streets the property fronts.

(c) Gasoline pump identification sign. For the purpose of identifying the brand of gasoline, each pump shall be allowed one (1) sign not to exceed one (1) square foot mounted on the pump facade. No other commercial message shall be displayed.

(d) Multiple-tenant convenience centers. For the purpose of identifying multiple tenants within a convenience center, the principal ground sign or wall sign may be divided equally among those tenants occupying the convenience center; provided, however, said principal ground sign shall conform to the design requirements contained in Table 2 of this chapter.

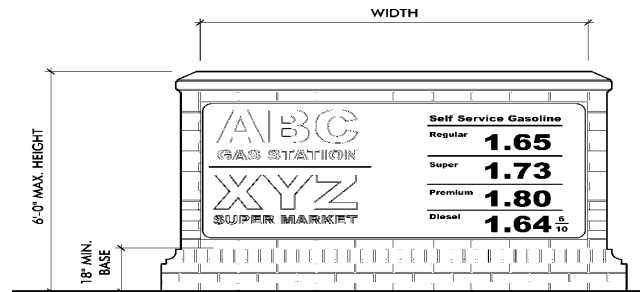


Figure 9: Multi-tenant Convenience Store Sign

(19) Subdivision development sign:

(a) Such signs shall be limited to one (1) located within one hundred feet (100') of the primary entrance to the subdivision provided the sign must be located on property located within the subdivision.

(b) Such sign shall not exceed seventy-two inches (72") in height measured from finished grade including a decorative cap.

(c) The allowable sign area shall be twenty-four (24) square feet and the sign shall not exceed seventy-two inches (72") in height measured from finished grade.

(d) The sign may be double-sided and shall be attached to two (2) separate decorative posts white in color located not more than forty-eight inches (48") apart on center.

(e) Such sign shall not contain a commercial message.

(f) The base of the sign shall be planted with evergreen shrubbery and seasonal colors in an area equivalent to the total sign area.

(g) The sign shall be removed upon development of ninety percent (90%) of available lots in the subdivision.



Figure 10: Subdivision Development Sign

(20) Temporary residential yard signs. Signs shall be permitted, provided that such signs do not exceed five (5) square feet in surface area and 48 inches in height measured from finished grade. Signs shall be set back from the public right-of-way a minimum of fifteen feet (15').

(21) Street numbers. All occupied buildings and/or structures shall have prominently displayed on the front façade near the primary entrance or upon the principal ground sign, the street number assigned to the building and/or structure so as to be readily identified by emergency response personnel. If mounted to a wall, street number signs shall not be calculated as part of the total allowable sign area for a wall sign.

(22) Suspended sign (planned commercial). Suspended signs shall be allowed under canopies provided that:

- (a) Such sign shall not exceed one (1) per building or tenant entrance;
- (b) Such signs shall not exceed three (3) square feet in sign area;
- (c) Such signs shall not be separately illuminated; and,
- (d) Such signs shall contain only the two (2) pieces of information excluding the street number or suite number of the occupant served by the entrance.

(23) Shopping center signs:

(a) Qualifying sites - shopping center signs may be permitted on commercial sites that meet all of the following criteria:

- (i) The property upon which the sign would be located is zoned C-2.
- (ii) The commercial project is located directly adjacent to Canada Road, Highway 64, or Highway 70.
- (iii) The project contains at least twenty thousand (20,000) square feet of leasable area.
- (iv) The project contains at least eight (8) tenant spaces.

(b) Standards. If a property qualifies for a shopping center sign, the following standards shall apply:

(i) A maximum of one (1) shopping center sign shall be allowed per street frontage and shall be located only on an arterial road (Canada Road, Highway 64, or Highway 70).

(ii) The maximum total sign area shall be one hundred fifty (150) square feet

(iii) The maximum size of the directory space shall be one hundred twenty (120) square feet.

(iv) The maximum height of the sign shall not exceed fifteen feet (15').

(v) The maximum width of the sign face shall be ten feet (10').

(vi) The maximum individual tenant space on the sign shall be fifteen (15) square feet.

(vii) The minimum letter height allowed for tenant identification on the sign shall be ten inches (10").

(viii) The minimum setback from right-of-way is ten feet (10').

(ix) No shopping center sign shall be located within five hundred feet (500') of another shopping center sign.

(x) The shopping center sign shall include the street address of the center, or the address range if more than one (1) address is included in the project.

(xi) The sign shall be placed upon a brick or stone base a minimum of eighteen inches (18') in height measured from finished grade.

(xii) The base of the sign shall be landscaped with evergreen and deciduous shrubbery and seasonal colors on each side of the sign in at least an area equivalent to the total sign area of each face of the sign.

(xiii) No sign within six hundred feet (600') of any residential district shall be illuminated between the hours of midnight and 6:00 A.M. unless the sign is visibly obstructed from the residential district. (1989 Code, § 4-204, as amended by Ord. #192, Dec 1996, replaced by Ord. #03-41, June 2003, and amended by Ord. #04-59, March 2004, Ord. #07-108, Aug. 2007, Ord. #07-109, Aug. 2007, Ord. #12-177, Aug. 2012, and replaced by Ord. #16-245, Oct. 2016)

14-405. Prohibited signs and devices. All signs not express permitted under this chapter or exempt from regulation as provided for in this chapter are prohibited. Such signs include, but are not limited to:

(1) Signs which are of a size, location, movement, content, coloring, or manner or illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal;

- (2) Signs which contain or are an imitation of an official traffic sign or signal or contain the words "Stop," "Go Slow," "Caution," "Yield," "Danger," "Warning" or similar words;
- (3) Signs which show pictures of human figures, animals or food, and signs which contain characters, cartoons or statements of an obscene, indecent or immoral character which would offend public morals or decency;
- (4) Signs which are of a size, location, movement, content, coloring, or manner or illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal;
- (5) Signs which purport to be, or are an imitation of, or resemble an official traffic sign or signal;
- (6) Changeable copy signs (manual and automatic), except for civic, institutional and schools. Any changeable copy sign (manual) that does not have a locked, vandal-proof access cover;
- (7) Canopies with backlighting shall not be allowed;
- (8) Any internally illuminated sign, unless permitted in a commercial district;
- (9) Beacons;
- (10) Rotating signs;
- (11) Snipe signs, or off-premise signs attached to utility poles, trees, or any like freestanding structure;
- (12) Windblown devices;
- (13) Flashing signs;
- (14) Open channel letter signs;
- (15) Projecting signs;
- (16) Canopy signs;
- (17) Marquee signs;
- (18) Tag signs;
- (19) Portable signs;
- (20) Double-faced, "V"-type back-to-back signs;
- (21) Pole signs;
- (22) Project signs;
- (23) Inflatable signs;
- (24) Signs painted on or attached to balloons and other such devices, whether hot air or cold air or gas filled;
- (25) Animated signs;
- (26) Signs which emit audible sound, odor or visible matter;
- (27) Off-premise signs;
- (28) Any commercial sign located in a residential district not otherwise provided for in this chapter;
- (29) Strips or strings of lights outlining property lines, sales areas, roof lines, doors, window, wall edges, or other architectural elements of a building, provided, however, this prohibition shall not apply generally to holiday decorations and lighting;

(30) Neon and other similar type signs located in such a manner as to attract public attention from outside the building that:

(a) Contain a message clearly intended for public recognition outside the buildings such as "drive thru" and other similar messages; or

(b) Are legible from the public right-of-way or adjacent property; provided, however, an illuminated sign containing the word "Open" may be displayed in the front window of a tenant space provided such sign does not exceed four (4) square feet in sign area and must be turned off after business hours or when the tenant space is not being occupied;

(31) Signs attached to, suspended from or painted on any vehicle which is regularly parked on any street or private property when one of the purposes of so locating such vehicle is to display, demonstrate, and advertise or attract the attention of the public:

(a) It is not a violation of this section merely to have a common logo of business sign attached to, suspended from, or painted on a company vehicle regularly engaged in the business of the owner, and;

(b) When appropriate authorities determine that a vehicle is being regularly parked in a manner that violates this chapter, the city will issue a single notice of violation to the owner of the vehicle, to remove said vehicle from the premises. Failure to remove said vehicle might result in further legal action including the removal of said vehicle by the city.

(32) Any sign attached to an accessory structure, except an incidental sign, if such sign is legible from the public right-of-way or from an adjoining property;

(33) Signs which are structurally unsound or which are rendered structurally sound by guy wires or unapproved facing or bracing;

(34) Abandoned, neglected or dilapidated signs;

(35) Any other attention-attracting device, except for those conforming to the dimensional, design, lighting and other standards applicable to a sign in the same location;

(36) Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building;

(37) Ground signs exceeding thirty-two (32) square feet in copy area and/or signs and sign structures in excess of seventy-two inches (72") in height unless otherwise provided for in this chapter;

(38) Signs in any area designated as an undisturbed buffer pursuant to a federal, state or local law, pursuant to a condition of approval for a subdivision, planned development or site plan;

(39) Signs which advertise an activity illegal under federal laws, the laws of the State of Tennessee, or any laws of Shelby County or the City of Lakeland; and

(40) Any sign that exhibits statements, words or pictures of an obscene nature.

(41) Signs not expressly permitted in this chapter are prohibited. (1989 Code, § 4-205, as replaced by Ord. #03-41, June 2003, amended by Ord. #04-59, March 2004, and replaced by Ord. #16-245, Oct. 2016)

14-406. Design and construction standards. (1) Construction standards. All signs shall be designed, constructed and maintained in accordance with the following standards:

(a) All signs shall comply with applicable provisions of local, state and federal building codes including seismic design standards and wind load design specifications.

(b) Electrical signs that have internal wiring or lighting equipment, and external lighting equipment that directs light on signs, shall not be erected or installed until an electrical permit has been obtained from the city or authority having jurisdiction. All such signs and equipment shall bear the seal of approval of an electrical testing laboratory that is nationally recognized as having the facilities for testing and requires proper installation in accordance with the National Electrical Code. All wiring to electrical signs or to freestanding equipment that lights the sign shall be installed underground.

(c) Except for permitted banners, flags, temporary signs and window signs conforming in all respects with the requirements of this chapter, all signs shall be constructed of permanent materials and shall be attached to the ground, a building or another structure by direct attachment to the wall, frame or structure.

(d) All ground-mounted signage shall include landscaping around the entire base of the sign structure. Landscaping shall consist of multiple rows of evergreen and deciduous plant materials and seasonal colors that add visual interest to the sign. All landscaping shall be irrigated. All plant materials shall be properly maintained including the immediate removal and replacement of any dead or diseased plant materials.

(2) Maintenance standards. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this chapter. specifically:

(a) A sign shall have no more than twenty percent (20%) of its surface area covered with disfigured, cracked, ripped or peeling paint, poster paper or other material for a period of more than thirty (30) days.

(b) A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than fifteen degrees (15°) from vertical for a period of more than ten (10) days.

(c) A sign shall not have weeds, trees, vines, or other vegetation growing upon it, or obscuring the view of the sign from the public

right-of-way from which it is to be viewed, for a period of more than fifteen (15) days.

(d) An internally illuminated sign shall be allowed to stand with only partial illumination for a period of no more than fifteen (15) days.

(e) Flags shall not be faded, tattered or torn.

(f) All landscaping installed around the base of a sign shall be maintained whereby any dead plant materials are replaced with the same plant material in a size and spread comparable to other plant materials installed around the base of the sign at the time the replacement plant materials are being installed.

(3) Signs not to create traffic hazard. (a) Clear sight triangle. All entrance signs and freestanding signs located near the corners of an intersection shall be located outside of the clear sight triangle. Such triangle shall be measured at a distance of thirty five feet (35') running parallel along each leg of the road or driveway pavement surface and connecting them to form a triangle area. This area shall be free of any permanent or temporary signs that may inhibit clear sight visibility for motorists and/or pedestrians.

(b) Other hazards. No signs shall be erected, and there shall be no lighting of signs or premises, in such a manner or in such location as to obstruct the view of, or be confused with, any authorized traffic signal, notice or control device.

(c) Removal. Any such signs or light sources shall be removed at the direction of the city. If not removed by owners or occupants of the property within ten (10) days of notice, the city shall cause the signs to be otherwise removed, and the cost of removal including all incidental administrative costs shall become a lien against the property until satisfied.

(4) Colors. Signs that are internally illuminated shall not use more than three (3) colors, plus a background color, unless specified in an approved sign plan. The background color shall be non-illuminated. Signs externally illuminated may upon approval of the design review commission have up to five (5) colors excluding the background color. For panel signs, the background color shall mean the panel itself. For channel letters, the background color shall mean the returns. If the portion of the building wall behind a wall sign is painted a different color than the remainder of the wall, then such portion of the wall shall be counted as a background color. Trim colors shall be counted as background colors.

(5) Display of logos and trademarks, general. Logos and trademarks may be included on signs (except identification, residential and incidental signs) without separate restriction, provided that such logos and trademarks are consistent with the approved color scheme shown on the approved sign plan.

(6) Display of registered trademarks. A federally registered trademark which is registered in colors inconsistent with the applicable sign plan be

displayed in whole or part on a sign in its registered form and color(s), provided that it may only occupy up to twenty-five percent (25%) of the permitted area of the sign as permitted by the design review commission, without regard to the color limitations otherwise applicable to the sign; placement on the sign shall be in accordance with any applicable provisions of the approved sign plan and as may be required by the design review commission.

(7) Lighting. Sign illumination shall only be achieved through the following standards:

(a) A white, steady, stationary light of reasonable intensity that is directed solely at the sign. The light source shall be shielded from adjacent buildings and streets, and shall not be of sufficient brightness to cause glare or other nuisances to adjacent land uses.

(b) Internal illumination shall provide steady, stationary lighting through translucent materials. The use of translucent backgrounds is not permitted. Backgrounds shall be opaque and not permit the transmission of light through the sign face material. Illumination of a logo or trademark may be permitted provided translucent backgrounds are not utilized.

(c) If the wall sign is internally illuminated or back lit by any means, the entire light area shall be included within the allowable signage calculation for the site.

(d) The light from any illuminated sign shall not be of an intensity or brightness that will interfere with the peace, comfort, convenience, and general welfare of residents or occupants of adjacent properties.

(e) No sign shall have blinking, flashing, or fluctuating lights or other illuminating devices that have a changing light intensity, brightness, or color.

(f) Exposed bulbs shall not be used on the exterior surface of any sign.

(g) Exposed neon shall not be allowed including use as an architectural detail element.

(h) All wall signs shall be either individual translucent letters and an individual logo or reverse channel letters and individual logo with a backlit light source.

(i) No color lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

(j) Neither direct nor reflected light from primary light sources shall create a hazard to operators of motor vehicles.

(k) All electrical service to ground mounted signs shall be placed underground. Electrical service to other signs including wall signs shall be concealed from public view.

(l) A sign placed in a residential district shall not be internally illuminated. The sign may be illuminated using back lighting or reverse channel letters which create a halo-effect or ground-mounted direct light fixture not to exceed one hundred (100) watts and properly screened from public view with evergreen plant materials.

(8) Signs in public right-of-way. (a) Permanent signs. Permanent signs shall be limited to:

(i) Public signs erected by or on behalf of a governmental body to identify public property, convey public information and direct or regulate pedestrian or vehicular traffic;

(ii) Bus stop signs erected by a public transit company;

(iii) Informational signs of a public utility regarding its poles, lines, pipes or other facilities;

(iv) Signs appurtenant to a use of public property permitted under a franchise or lease agreement with the city; and

(v) Signs posted in association with municipal, county, state or federal authorities for crime prevention and public safety and health.

(b) Temporary signs:

(i) Legal notices erected by or on behalf of a governmental body;

(ii) Emergency warning signs or devices erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

(c) Subdivision and neighborhood identification signs.

Ground-mounted signs integrated into entrance treatment with the name of the residential or non-residential subdivision or planned unit development may be located on one or both sides of each principal roadway entrance into the development provided that:

(i) Roadside. One (1) sign located on one side of the entrance road or on both sides of the entrance road at each principal entrance to the subdivision or planned unit development, provided that:

(A) Such sign shall not exceed thirty-two (32) square feet in area; and,

(B) Such sign shall not exceed seventy-two (72) inches in height, unless such sign is integrated into a wall or column, in which case such sign shall not exceed the height of the wall or column; and,

(C) Such sign shall not contain a commercial message.

(d) Other signs in public right-of-way. Any other sign placed in the public right-of-way in violation of this chapter shall be deemed a public nuisance and may be seized by the enforcement official or other

representative of the city, and the person owning or placing the sign may be charged both with a violation of this chapter and with the cost of removing and disposing of the sign. (1989 Code, § 4-206, as replaced by Ord. #03-41, June 2003, amended by Ord. #04-59, March 2004, and replaced by Ord. #16-245, Oct. 2016)

14-407. Interstate and Highway 64 Corridor signs. Interstate signage. The following signs shall be permitted on a parcel that is zoned C2, general commercial and adjoins the right-of-way of Interstate 40:

(1) The monument-style interstate sign shall contain a solid base and shall be solid monument-style or a minimum of two (2) architecturally detailed columns of similar material to the base of the sign as approved by the design review commission. No exposed posts or poles shall be permitted. The materials should match and/or compliment the materials, colors, and textures of the principal structure on the subject parcel.

(2) The monument-style interstate sign shall be placed in the middle third of the frontage directly abutting Interstate 40 unless otherwise authorized by the design review commission to be placed on a property not facing the Interstate.

(3) The height shall not exceed thirty-five feet (35') measured from the finished grade to the uppermost element of the sign structure.

(4) The maximum sign area per sign face shall not exceed one hundred (100) square feet.

(5) The sign face shall be limited to three (3) colors excluding the background color if internally illuminated. The design review commission may allow the sign face to exceed three (3) colors excluding the background color if non-internally illuminated not to exceed a maximum of five (5) colors excluding background color.

(6) The sign may be internally illuminated provided the background color shall be opaque and not be permitted to transmit light through the material.

(7) The sign shall be limited to two (2) pieces of information. Both sign faces shall contain the same pieces of information.

(8) Multiple-tenant occupancies shall not be permitted to have multiple-tenant signage (i.e., the principal tenant or the shopping center shall be the only tenant permitted to have a sign even if a multiple tenant occupancy exists).

(9) The sign shall be positioned in the yard facing the right-of-way of Interstate 40 and shall be no closer than fifty feet (50') from the property line abutting the Interstate right-of-way.

(10) The base surrounding the sign shall be landscaped an area equal to the total sign area and shall consist of a combination of evergreen and deciduous plant materials including trees and shrubs. All landscaping shall be irrigated. Any dead or diseased plant materials shall be replaced immediately.

(1989 Code, § 4-207, as amended by Ord. #193, Dec. 1996, and replaced by Ord. #03-41, June 2003, and Ord. #16-245, Oct. 2016)

14-408. Administration and penalties. (1) Scope of authority of design review commission. The design review commission shall not have the authority to alter or amend this chapter nor to approve a sign not in conformity herewith except as provided in § 14-410 of this chapter and is directed to cooperate with the code enforcement official in the enforcement of same, including but not limited to, the following functions:

(a) The design review commission, upon approving a sign, shall forward the application to the code enforcement official with approval noted thereon.

(b) The design review commission shall identify signs that it believes to be illegal, variance, and/or non-conforming signs to the code enforcement official for enforcement.

(c) The design review commission may take other action within its authority to insure safety, eliminate hazards, and eliminate encroachment upon public streets and property and encroachment upon adjoining land or users.

(d) The design review commission, while it may not approve signs in violation of this chapter, has the specific and general authority to refuse approval of signs, otherwise in compliance with this chapter, which because of unsafe location, unsafe construction, aesthetic deficiency, insufficient structure and/or encroachment upon surrounding property, violate the spirit of this chapter, which is dedicated to the safety and public welfare of all citizens and businesses in the City of Lakeland.

(e) The design review commission shall not review:

(i) Applications and related documents for temporary signs; or,

(ii) Individual signs that are a part of a previously approved site plan; or

(iii) Wall signs that are in compliance with all aspects of the sign ordinance.

(2) Authorization to enforce sign ordinance. The code enforcement official is hereby authorized and directed to enforce all of the provisions of this chapter. Upon presentation of proper credentials, the code enforcement official, or his duly authorized representative, shall be permitted by the owner or occupant to enter at reasonable times, any building, structure or premises in the city of Lakeland to perform any duty imposed upon him by this chapter.

(3) Appeal. (a) Appeal from decision of the code enforcement official:

(i) Any applicant aggrieved by any decision or order of the Code enforcement official may appeal, within a period not to exceed ten (10) days from said action, to the design review commission by serving written notice to the city recorder who, in

turn shall immediately transmit the notice to the design review commission which shall meet to hear said appeal within thirty (30) days thereafter.

(ii) If the design review commission should fail to hear the appeal within thirty (30) days, the appeal shall be referred directly to the board of commissioners.

(iii) The code enforcement official shall take no further action on the matter pending the design review commission's decision, except from unsafe signs that present an immediate and serious danger to the public, as provided elsewhere in this chapter.

(b) Appeal from decision of design and review commission:

(i) The decision of the design review commission may be appealed directly to the board of commissioners upon written notice of appeal to the board within five (5) days of said action.

(ii) The appeal shall be heard at a scheduled meeting of the board of commissioners.

(iii) The board of commissioners may accept, reject or modify the action of the design and review commission.

(iv) Any action on an appeal from the design review commission shall require a minimum of four (4) affirmative votes of the board of commissioners and in the absence thereof, the action of the design review commission shall become final and binding.

(4) Penalties. Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than the maximum allowable fine under state law, each day's continuance of a violation constituting a separate offense. The owner of any sign, building, premises, or part thereof, where a sign in violation of this chapter shall be placed, or shall exist, and any person who may have assisted in the commission of any such violation, shall be guilty as an accessory of the offense. (1989 Code, § 4-208, as replaced by Ord. #03-41, June 2003, amended by Ord. #04-59, March 2004, and replaced by Ord. #16-245, Oct. 2016)

14-409. Permits and fees. (1) Permits required for signs. (a) All permanent and temporary signs allowed under this chapter, including existing signs, shall require a permit unless provided otherwise in this chapter.

(b) No sign shall be placed, constructed, erected, altered or relocated on a site without a permit, except as otherwise provided herein. Required electrical permits shall be obtained at the same time the sign permit is obtained by the applicant.

(c) With the exception of signs that comply with a sign plan contained within an approved planned unit development (provided such

plan was approved prior to month, date, year), no sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with:

- (i) Any sign plan approved and in effect for the property;
- and,
- (ii) The conditions of this chapter.

(d) No permit shall be issued for a permanent sign requiring a sign permit until the application has received the review and approval of the design review commission as provided for in this chapter.

(e) Any sign standard not included in a sign plan will be controlled by the sign ordinance.

(2) Application requirements. (a) An application for a sign permit may be filed only by the owner of the property on which the sign is to be erected, or by an agent, lessee, or contract purchaser specifically authorized by the owner to file such application. Where an agent, lessee, or contract purchaser files the application, the agent, lessee, or contract purchaser shall provide the city with written documentation that the owner of the property has authorized the filing of the application.

(b) An application for a sign permit shall be filed with the City of Lakeland on a form prescribed by the city, along with the fee for such application as contained in Appendix "A" of the City Code of Lakeland, Tennessee.

(c) Each application for a sign permit shall contain information required on the application form, and such other information regarding the proposed sign as the city and/or design review commission may deem necessary in order to determine whether the proposed sign(s) complies with the applicable requirements of this chapter and other applicable ordinances of the city.

(d) The city shall determine whether the application is complete. If the city determines that the application is not complete, then it shall notify the applicant of any deficiencies and shall take no further steps to process the application until the applicant remedies the deficiencies.

(3) Fees. The permit fee for each sign allowed under the requirements of this chapter shall be as prescribed in Appendix "A" of the City Code of Lakeland, Tennessee.

(4) Plan submittal required. A sign plan is required for all residential subdivisions, multifamily and townhome developments, planned unit developments, non-residential subdivisions, non-residential developments, and all multi-building or multi-occupant non-residential developments before any signs for such development may be erected on the property. All owners, tenants, subtenants and purchasers of individual units within the development shall comply with the sign plan approved by the City of Lakeland.

(5) Sign plan elements. The sign plan shall consist of five (5) distinct design elements that shall govern all signs within the development: location, materials, size, color and illumination. The sign plan shall include details, specifications, dimensions, and plans showing the proposed locations of sign and how such locations conform to the requirements of this chapter. Material samples proposed for use on sign shall be included with submittal of plan documents. A full-color rendered site plan and elevation drawing shall be included with the submittal of plan documents. The sign plan shall also show the computations of the maximum total sign area permitted for the site.

(6) Plan review procedure. A sign plan shall be submitted for review and approval by the design review commission. Prior to consideration of a sign plan by the design review commission, the applicant shall meet with city staff to review the sign elements relative to applicable provisions of this chapter. city staff shall provide a written report to the design review commission outlining their findings for consideration by the commission during the review of the sign plan. The design review commission shall review the sign plan in accordance with § 14-408(1) of this chapter.

(7) Plan review criteria. A Sign plan for a residential or non-residential subdivision, planned unit development, non-residential structure (single occupant, multi-building or multi-occupant), and other projects proposing the installation of signage requiring review and approval by the design review commission and issuance of a sign permit, shall not be approved until and unless the city finds that:

(a) The sign plan provides that signs of a similar type and function within the development will have a consistent color scheme, architectural style, and material construction; and

(b) The sign plan provides for signs are context sensitive and fit the massing, scale, design theme, architectural style of the buildings and are generally consistent with the provisions contained in the remainder of this chapter. The DRC may approve sign plan elements that vary from the general requirements of the sign ordinance if the applicant can demonstrate how the varied standards are contextually appropriate and would enhance the overall project. Any sign standard not provided in the sign plan shall be controlled by the sign ordinance.

(8) Amendment to approved sign plan. An approved sign plan may be amended by filing a new sign plan with city:

(a) The application may be filed only by the owner of the land affected by the proposed change; or an agent, lessee or contract purchaser specifically authorized by the owner to file such application. Before filing the application, all landowners affected by the proposed change must give written authorization.

(b) Any new or amended sign plan (including those for planned unit developments) shall include a schedule for bringing into conformance

within ninety (90) days all signs not conforming to the proposed plan. This shall apply to all properties governed by the sign plan.

(9) Effect of approval of sign plan. After approval of a sign plan, or an amended sign plan, no sign shall be erected, placed, painted, or maintained, except in accordance with such plan, and such plan may be enforced in the same way as any provision of this chapter.

(10) Lapse of sign permit. A sign permit shall lapse automatically if the business license for the premises lapses or is revoked or not renewed. A sign permit shall also lapse if the business is discontinued for a period of ninety (90) days or more.

(11) Permits for temporary signs. Temporary signs on private property shall be allowed only in accordance with the provisions of § 14-404(15) of this chapter and only upon issuance of a temporary sign permit, which shall be subject to the following terms:

(a) A temporary sign permit shall allow the use of a temporary sign for a specified period.

(b) Temporary signs shall not require the review and approval by the design review commission prior to issuance of a temporary sign permit.

(12) Removal of signs upon discontinuance of use. Whenever the use of a building or premises by a specific business or other establishment is discontinued by the owner or occupant for a period of ninety (90) days, the sign permits for all signs pertaining to that business or establishment that were installed by the occupant or owner shall be deemed to have lapsed, and the signs shall be removed at the expense of the occupant and/or owner, as well as all signs and related structural members which do not conform to the standards of this chapter. The sign plan approved by the city, if applicable, shall remain in effect provided it does not conflict with the requirements of this chapter. (1989 Code, § 4-209, as amended by Ord. #192, Dec. 1996, replaced by Ord. #03-41, June 2003, amended by Ord. #04-59, March 2004, and replaced by Ord. #16-245, Oct. 2016)

14-410. Variances. (1) Purpose. Where a literal application of the terms of this chapter, due to special circumstances, would result in an unusual hardship in an individual case, the design review commission may grant a variance to the number of colors, use of logos and trademarks, location, orientation, illumination, and other related design elements for permitted signs as specifically provided for in various sections of this chapter and pursuant to procedures set forth in city code, where all the following conditions exist:

(a) Exceptional conditions pertaining to the property where the sign is to be located as a result of its size, shape or topography, which are not applicable generally to other lands or structures in the area.

(b) The applicant would be deprived of rights that are commonly enjoyed by others similarly situated.

(c) Granting the variance would not confer on the applicant any significant privileges that are denied to others similarly situated.

(d) The exceptional circumstances are not the result of action by the applicant.

(e) The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similar situated.

(f) Granting of the variance would not violate more than one (1) standard of this chapter.

(g) Granting of the variance would not result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of vehicular and pedestrian traffic.

(2) Variance allowed. A request for variance from the sign ordinance shall be submitted to the design review commission through the City of Lakeland. Final review of the variance shall be based upon the criteria enumerated in § 14-410(1) of this chapter. No variance shall be granted to the height or setback requirement in excess of ten percent (10%) of the prescribed standards in this article. The design review commission may allow variances to dimensional requirements for wall sign area (not the method of computation) that permit an increase above the maximum sign area provided there is suitable wall surface and building massing upon which to place a larger wall sign. (1989 Code, § 4-210, as amended by Ord. #192, Dec. 1996, replaced by Ord. #03-41, June 2003, amended by Ord. #04-59, March 2004, and replaced by Ord. #16-245, Oct. 2016)

14-411. Inspection, removal and safety. (1) Repair and/or replacement of signs. It shall be the obligation of the code enforcement official to maintain routine inspections upon all signs in the City of Lakeland, independently and/or upon the referral of the design review commission. The code enforcement official will perform routine inspections to insure all signs are reasonably maintained, promptly repaired, remain in compliance with this chapter and still exhort the business of the occupant. In the event that the code enforcement official determines that a sign is deficient as above recited, he shall cause to be delivered a formal written notice to the owner and/or occupant directing the correction of the deficiency within ten (10) days. Upon failure to properly correct the deficiency of said notice within the time allotted, the sign shall be rendered an illegal sign subject to the enforcement provisions as hereinbefore provided.

(2) Annual inspection required. (a) The City of Lakeland shall inspect once annually on or about the anniversary date of this chapter signs properly permitted by this chapter; provided, however, single-family subdivision entrance signs are exempt from the annual inspection requirement.

(b) All signs and components thereof shall be kept in good repair and in safe, neat, clean and attractive condition.

(3) Removal of illegal signs required. All illegal signs shall be removed within sixty (60) days from the effective date of this chapter.

(4) Notice to remove illegal sign. In addition to the other rights and privileges created hereby, the code enforcement official, upon determining that a sign, sign structure, or appurtenance thereto, is in violation of the chapter, may in addition to other penalties, deliver notice to the owner and/or occupant to remove the illegal sign within ten (10) days. The code enforcement official may also cause to be issued summons by the clerk of any court having jurisdiction over said violation, citing the violator to appear and answer the charge of violation before said court, which finding may be appealed as any other conviction of an ordinance violation to the circuit court.

(5) Removal of sign. (a) Temporary signs erected or maintained in violation of this chapter shall be removed by the code enforcement official or his designee without notice.

(b) The code enforcement official or his designee shall remove any sign immediately and without notice if the sign presents an immediate threat to the safety of the public.

(c) Any sign removal shall be at the expense of the property owner.

(6) Removal of abandoned signs. All signs that no longer correctly direct or exhort any person, advertise a bona fide business in progress, lessor, owner, project or activity conducted or product available shall be removed within thirty (30) days from the cessation of said activity.

(7) Removal of unsafe structures. Upon notice by the code enforcement official to the owner or occupant of property upon which an illegal sign, an unsafe sign, unsafe sign structure or unsafe appurtenance thereto, is located, the said owner or occupant, within twenty-four (24) hours, shall remove same, or in the alternative, with the leave of the city manager, the code enforcement official or his designee may remove same or provide for its immediate removal, the cost of said removal to be borne by the owner and/or occupant.

(8) Provisions of federal and state law expected. No provision of this chapter shall contravene by term or application any existing or later enacted statute or regulation of the federal or state governments, and in the event of said conflict, the provisions of the state and/or federal regulations shall control, and signs permitted by said statute may be erected in size, dimensions, set-back and design at the minimum requirements of said state and/or federal law or regulation, and subject to the review and approval of the design and review commission and upon reference to the city attorney upon his certification of the law to the design and review commission. (as added by Ord. #03-41, June 2003, and replaced by Ord. #16-245, Oct. 2016)

14-412. Nonconforming signs. It is the policy of the City of Lakeland to encourage that all signs within the city be brought into compliance with the terms and requirements of this chapter.

(1) Nonconforming signs adversely affect public health, safety and welfare. The city finds that non-conforming signs may adversely affect the public health, safety and welfare. Such signs adversely affect the aesthetic characteristics of the city and may adversely affect public safety due to visual impact of said signs on motorists and the structural characteristics of said signs. Accordingly, the following registration requirements are found to be necessary in order to minimize these possible adverse effects through annual inspections and maintenance and allow the city to remain cognizant of the locations and maintenance of said signs.

(2) Inspection of nonconforming signs. The city may inspect existing signs in the city from time to time to determine if such signs conform to the provisions of this chapter.

(3) Discontinuance of nonconforming signs. Any nonconforming sign, which is not used or leased for a continuous period of ninety (90) days, shall not be reused for sign purposes unless and until it fully conforms to the terms and requirements of this chapter.

(4) Removal of non-conforming signs. All non-conforming signs provided the non-conformity has been documented as hereinbefore provided shall be removed within the earliest applicable time period or occurrence as specified below:

(a) Change in use. When the use of a property changes (including but not limited to the redevelopment of the site or a change in use, the signs on that property must be brought into compliance with the requirements of this chapter.

(b) Abandonment. Any sign related to a use or business that ceases to exist or operate for a continuous period of ninety (90) days shall be considered nonconforming and shall not be reused for sign purposes unless and until it is in full conformity with the provisions of this chapter, subject to issuance of a new sign permit.

(c) Alterations to nonconforming signs. No alterations to a nonconforming sign or sign structure shall be permitted except minor repairs and maintenance. Any structural or other substantial maintenance or improvement to a nonconforming sign (except painting or refinishing the surface of the existing sign face or sign structure so as to maintain proper appearance) shall be deemed an abandonment of the nonconforming status, shall render any prior permit void, and shall result in the reclassification of such sign as an illegal sign.

(5) Alteration, expansion, moving. No nonconforming sign shall be changed or altered in any manner which would increase the degree of its nonconformity, be expanded, altered to prolong its useful life, or removed in whole or part to any other location where it would be nonconforming.

(6) Damage or destruction. In the event that any nonconforming sign is damaged or destroyed by any means, to the extent of more than fifty percent (50%) of the fair market value of such sign immediately prior to such damage or destruction, such sign shall not be restored unless it shall thereafter, conform to this chapter.

(7) Maintenance and repair of nonconforming signs. No structural repairs, change in shape, size or design, shall be permitted except to make a nonconforming sign comply with all requirements of this chapter.

(8) Other sign permits on premises. (a) For single occupant properties, the issuance of a sign permit for a new or replacement sign shall be subject to the condition that all nonconforming signs on that property shall be removed or brought into compliance as part of the work of installing the new or replacement sign.

(b) For multi-occupant properties, the issuance of a sign permit for a new or replacement sign for any individual occupant shall be subject to the condition that all nonconforming signs for that occupant shall be removed or brought into compliance as part of the work of installing the new or replaced sign.

(c) This section shall not apply to the issuance of a permit for a temporary sign.

(9) Required removal. Where an amendment to a previously approved development plan is proposed, approval of such plan shall be contingent upon removal of all nonconforming signs on the site. For example, if an existing retail establishment proposed a building addition or parking expansion, then any nonconforming signs on the property must be brought into compliance as a condition of approval of the amended site plan.

(10) Replacement of nonconforming sign. Another nonconforming sign may not replace a nonconforming sign. (as added by Ord. #03-41, June 2003, amended by Ord. #04-59, March 2004, and replaced by Ord. #16-245, Oct. 2016)

14-413. Severability. The provisions of this chapter are severable. If any provision of this chapter or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application. (as added by Ord. #16-245, Oct. 2016)

CHAPTER 5**MOBILE HOME PARKS¹****SECTION**

- 14-501. Jurisdiction.
- 14-502. Definitions.
- 14-503. Permits.
- 14-504. Fees.
- 14-505. Inspection services.
- 14-506. Application procedure.
- 14-507. Development site.
- 14-508. Site improvements.
- 14-509. Transportation system.
- 14-510. Utilities.
- 14-511. Mobile home site.
- 14-512. Service facilities.
- 14-513. Miscellaneous requirements.
- 14-514. Enforcement.
- 14-515. Amendment.
- 14-516. Penalties.

14-501. Jurisdiction. The regulations established within this chapter shall govern all mobile home parks within the city. Any owner of land within this area wishing to develop a mobile home park shall submit to the procedures outlined in this chapter and shall make those improvements necessary to comply with the minimum standards of this chapter. (1989 Code, § 8-501)

14-502. Definitions. Except as specifically defined herein, all words used in this chapter have their customary dictionary definitions where not inconsistent with the context. The term "shall" is mandatory. When not inconsistent with the context, words used in the singular number include the plural. Words used in the present tense include the future. For the purpose of this chapter certain words or terms are defined as follows:

(1) "Approved." Means acceptable to the appropriate authority having jurisdiction.

(2) "Building code." Unless otherwise designated, this term shall mean the Standard Building Code and its amendments.

¹Municipal code reference

Building, utility and housing codes: title 12.

(3) "Building inspector." The person appointed by the city board of commissioners having jurisdiction over the city for the enforcement of the building code and other local developmental regulations, including this chapter.

(4) "Common area." Any area or space designed for joint use tenants occupying mobile home developments.

(5) "Developer." The person, firm, or corporation having a proprietary interest in a mobile home park for the purpose of preceding under this chapter.

(6) "Diagonal tie." Any tie down designated to resist horizontal forces and which does not deviate less than 30 degrees from a vertical direction.

(7) "Electric feeder." That part of the electric distribution system between the transformer and the electrical connections of a mobile home.

(8) "Ground anchor." Any device at a mobile home stand designed for the purpose of securing a mobile home to the ground.

(9) "Health officer." The director of the county or district health department having jurisdiction over the community health in the city, or his duly authorized representative.

(10) "Internal street." In a privately owned mobile home park, this term shall mean a private street owned, constructed, and maintained by the developer which provides access to all spaces and facilities for common use by park occupants.

(11) "Mobile home (trailer)." A detached single-family dwelling unit with any or all of the following characteristics:

(a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailer or detachable wheels.

(c) Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, locations of foundation supports, connection to utilities and the like.

(12) "Mobile home lot." A parcel of land rented for the exclusive use of the occupants of a single mobile home.

(13) "Mobile home park." A parcel of land within the city under single ownership which has been improved for the placement of two (2) or more mobile homes for non-transient use.

(14) "Mobile home stand." That part of land subdivided into lots, each lot individually owned to utilize as the site for placement of a single mobile home and its facilities.

(15) "Occupied area." The total of all of the lot area covered by a mobile home and its accessory buildings on a lot or space.

(16) "Plat." A map or plan of an area indicating the location and boundaries of individual properties.

(17) "Service buildings." A structure housing a toilet, laundry facilities, office, or storage space.

(18) "Sewer connection." Consists of all pipes and fittings from the drain outlet of the mobile home to the inlet of the sewerage disposal system.

(19) "Site plan." This shall be the document, the contents of which are outlined within this chapter representative of the physical design of the mobile home park.

(20) "Subdivision regulations." This term shall refer to the subdivision regulations adopted by and in force within the city.

(21) "Tie down." Any device designed for the purpose of attaching a mobile home to ground anchors.

(22) "Travel trailer." A vehicular portable structure designed as a temporary dwelling for travel, recreational, and vacation uses, which:

(a) Is identified on the unit by the manufacturer as a travel trailer;

(b) Is not more than eight (8) feet in body width;

(c) Is of any weight provided its body length does not exceed 29 feet; or

(d) Is of any length provided its gross weight, factory equipped for the road, does not exceed 4,500 pounds.

(23) "Water connection." Consists of all pipes and fittings from the water inlet pipe of the mobile home to the outlet of the water distribution system.

(24) "Yards." That area on the mobile home lot or space between all lot or space lines and the sides of the mobile home and its attachments.

(25) "Zoning ordinance." This term shall mean the zoning ordinance adopted by and in force within the city. (1989 Code, § 8-502)

14-503. Permits. The following requirements for permits shall apply to any mobile home park within the city. The purpose of these permits shall be to provide contents to assure compliance with this chapter and other existing chapters; the public welfare demanding such.

(1) No place or site within the city shall be established by any person, group of persons and/or corporation as a mobile home park unless a valid permit has been issued by the city manager/recorder in the name of such persons, group of persons, and/or corporation for that specific mobile home park.

(2) It shall be unlawful for any person or persons to maintain or operate, within the city, any existing mobile home park unless such person or persons first obtain a permit therefor. Mobile home parks in existence as of the effective date of this chapter shall be required to obtain a mobile home park permit. Pre-existing mobile home parks which cannot comply with the

requirements regarding mobile home parks shall be considered as a non-conforming use.

(3) Every person holding a mobile home park permit shall give notice in writing to the building inspector within twenty-four (24) hours after having sold, transferred, given away, or otherwise disposed of interest in and/or control of any mobile home park. Such notice shall include the name and address of the person succeeding to the ownership of control of such mobile home park for the purpose of transferring the permit.

(4) No mobile home park in the city shall operate without the appropriate city and county business permits or licenses.

(5) It shall be unlawful to construct any building including accessory buildings, to move or alter any building, or locate a mobile home or any lot or space until the building inspector has issued a building permit for such.

(6) Any permit issued "shall become" void six (6) months from the date of issuance unless substantial efforts have been made by the date to exercise that power permissible by the permit.

(7) Any use, arrangement, or construction at variance with those originally authorized plans submitted as a basis for any permit shall be deemed a violation of this chapter and void the permit.

(8) In accordance with Tennessee State Law, a permit for the installation of the mandatory mobile home anchoring system is required and obtainable from the appropriate state inspector.

(9) No mobile home shall be used, placed, stored or serviced by utilities within the city or within any mobile home park in the city unless there is posted near the door of said mobile home a valid Tennessee State License or a HUD inspection sticker.

(10) The building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter. (1989 Code, § 8-503)

14-504. Fees. In order to assure a more cost effective system for the provision of inspection services, permit fees are hereby established as follows:

(1) Mobile home park permit fee. An annual mobile home inspection fee shall be required for all mobile home parks within the city. This fee for the mobile home park permit shall be collected by the county building inspector.

(2) Business permit (license) fees. Appropriate city and county fees are required for business permits and licenses and shall be obtained prior to the construction of any mobile home park within the city.

(3) Electrical inspection fee. An electrical inspection fee is required and shall be levied in accordance with Tennessee statutes for inspection services recommended.

(4) Anchoring fee. The state anchoring system inspection fee as required by Tennessee statutes shall be levied in accordance with said statutes.

(5) Tennessee license fee. A state license fee for mobile homes is required by Tennessee statutes and shall be levied in accordance with said statutes. (1989 Code, § 8-504)

14-505. Inspection services. The county building inspector and county health officer and all other authorized inspectors are hereby authorized and directed to make inspections within the city for the purpose of safeguarding the health and safety of the occupants of mobile home parks and of the general public. These representatives on behalf of the city shall have the authority to enter at reasonable times upon any private or public property for the purpose of inspections and investigations related to the performance of their duties concerning the enforcement of this chapter and other related regulations. Specifically, their inspections shall include but not be limited to the following duties:

(1) Building inspector. Upon inspection of a mobile home park or a mobile home by the building inspector, the following actions shall be undertaken for compliance with this chapter and other related regulations of the city which apply:

(a) Sections 14-507 through 14-513 of this chapter concerning the minimum standards acceptable for the development and operation of a designated mobile home park.

(b) Appendix "H" of the Standard Building Code outlining minimum mobile home standards.

(c) A review shall be conducted of all necessary permits for not only the park but also individual mobile homes with all violations reported by the building inspector to the appropriate authority.

(d) A visual review of the general health and safety conditions with any possible violations noted and reported by the building inspector to the appropriate authority.

(2) County health officer. The State Department of Health shall make inspections of the water system, sewage disposal system, and solid waste disposal facilities in accordance with Tennessee Code Annotated, §§ 68-24-101 and 68-24-120, and other state regulations.

(3) Electrical inspector. The electrical inspector shall make inspections in accordance with those powers designated by the appropriate state regulations.

(4) Anchorage inspector. The anchorage inspector shall make inspections of the mobile home anchorage and tie down facilities in accordance with Tennessee Code Annotated, § 68-45-105, and the State Fire Marshal's Office.

(5) The officials noted in the above subsection in the performance of their respective duties shall have the authority to inspect that register containing a record of all residents of a mobile home park.

(6) It shall be the duty of the owners or occupants of mobile home parks and mobile homes or of the person in charge thereof to give the designated inspectors free access to such premises at reasonable times for the purpose of inspection.

(7) It shall be the duty of every occupant of a mobile home park to give the owner thereof or his agent or employee access to any part of such mobile home park or its premises at reasonable times for the purpose of making alterations as are necessary to comply with this or other local regulations.

(8) Upon inspection of any mobile home park in which conditions or practices exist in violation of this chapter or other related regulations, the building inspector shall give notice in writing to the person to whom the permit was issued that unless such conditions or practices are corrected within a six (6) month period, the mobile home park shall be revoked and the operation of the mobile home park shall cease operation. (1989 Code, § 8-505)

14-506. Application procedure. (1) The developer shall consult early and informally with the planning commission and the city engineer for advice and assistance before the preparation of the site plan and the formal application for approval in order to become familiar with all regulations and area plans.

(2) Applications for a mobile home park shall be filed with the municipal planning commission for review and recommendation accompanied by a complete set of site, design and construction plans as required or prescribed by separate zoning and subdivision ordinances. Said plans shall conform to all zoning and/or subdivision regulations or requirements.

(3) Within sixty (60) days after submission of the site plan, the planning commission will review it and recommend approval or disapproval, or approval subject to modification. If disapproved, reasons for such shall be stated in writing.

(4) The planning commission recommendation shall be forwarded to the city commission for final approval, provided that, where modifications have been required of the applicant which are to appear on the site plan, such changes, as recommended by the planning commission, shall have been made. (1989 Code, § 8-506)

14-507. Development site. (1) The development site shall be suitable for residential use. It shall not be subject to hazards such as insect or rodent infestation, objectionable smoke, noxious odors, unusual noise, or the probability of flooding or erosion. The soil, ground water level, drainage, and topography shall not create hazards to the property or to the health and safety of occupants.

(2) The development site for a mobile home park shall comprise an area of not less than ten (10) acres. All sites shall consist of a single plat so dimensioned and related as to facilitate efficient design and management.

(3) Essential community facilities and services for residential development shall be reasonably accessible to the development site or provisions shall be made to assure that such facilities and services will be provided.

(4) Direct vehicular access to the development site shall be provided by an abutting improved public street of at least a "Collector" classification (as shown on the city's major street plan). (1989 Code, § 8-507)

14-508. Site improvements. (1) Site improvements shall be harmoniously and efficiently developed in relation to topography and the shape of the site. Full attention should be paid to use, appearance, and livability. Site improvements shall be fitted to the terrain with a minimum disturbance of the land. Existing trees, rock formations, and other natural site features should be preserved to the extent practical.

(2) When necessary, grading shall be utilized to preserve desirable site features through the diversion of surface water away from mobile home stands, the prevention of standing water and excess soil saturation, and the disposal of water from each mobile home space or lot. In no cases, however, shall grading be permitted to direct excessive surface water flow onto adjacent property.

(3) In the case of fill work at the development site, all fill material shall be uniform in texture and free from debris. Fill material shall be applied in uniform layers, raked and compacted to minimize settlement.

(4) Specific areas for the collection and disposal of surface and subsurface water shall be provided to protect the mobile home and provide safe use of other improvements. Surface water shall be directed toward existing off-site drainage facilities located in public right-of-ways. Internal drainage facilities shall be of adequate size, design, and construction and assured of permanent maintenance through easements or other means.

The planning commission upon advice from technical staff such as the city engineer or planning staff may require other drainage measures such as intersectional drains, drop inlets, bridges, etc., as deemed necessary.

(5) Exposed ground surfaces in all parts of every development site shall be either paved, covered with stone or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

(6) A thirty (30) foot wide evergreen buffer strip consisting of at least two rows of trees, shrubs, or hedges (as approved by the Design Review Commission) which will grow to a minimum height of ten (10) feet and be spaced not less than ten (10) feet apart shall be planted along all boundaries of the mobile home park, not including any public road right of ways.

(7) The provision of designated open space and recreation areas is encouraged to the extent necessary to meet the anticipated needs of the occupants. A centralized location is preferable for convenience and efficient maintenance. (1989 Code, § 8-508)

14-509. Transportation system. (1) All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot and other important park facilities. Access shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic.

(2) The street system shall be designed to recognize existing easements, utility lines, etc., which must be preserved and to permit connection of existing facilities where necessary for the proper functioning of the drainage and utility systems. Streets shall also be adapted to the topography, have suitable alignment for traffic safety, and have satisfactory surface and ground water drainage.

(3) All streets either public or internal (private) shall be a minimum of twenty-two (22) feet in width to accommodate anticipated traffic. Designated collector streets shall be of a width established by the planning commission.

(4) Before any proposed street may be constructed, the area must first be inspected by the city engineer who will at that time review the size of culvert necessary to prevent future drainage problems. The developer will be responsible for the provision of the specified culvert and installation of the culvert in the manner as is indicated by the city engineer.

(5) Surfaced streets are required, and all streets shall meet the technical specification for base and asphaltic concrete paving as required in the Lakeland Standard Construction specifications.

(6) All streets located within a mobile home park shall be illuminated with lighting units consisting of 400 watt mercury vapor lamps at intervals of 100 feet approximately 30 feet from the ground.

(7) Off-street parking areas shall be provided in all mobile home parks for the use of the occupants and guests without interference with the normal movement of traffic. All parking spaces shall be located so access can be gained only from internal streets of the mobile home park. Specific parking facility requirements are detailed in § 14-511(2).

(8) All mobile home parks shall be provided with safe and convenient pedestrian access between mobile homes and park facilities. A common walk system is recommended for those areas in which pedestrian traffic is concentrated in a large development. (1989 Code, § 8-509)

14-510. Utilities. (1) Water supply. An adequate supply of safe water under adequate pressure shall be provided in each mobile home park. Where a public supply of water is satisfactory quantity, quality, and pressure is available, connection shall be to this system and used exclusively.

(a) The bacteriological and chemical quality of the water shall be acceptable to the Shelby County Health Officer in accordance with minimum requirements for the State of Tennessee.

(b) The source of water supply shall be capable of supplying a minimum volume of 250 gallons of water per day per mobile home with

pressure of not less than twenty (20) pounds residential pressure per square inch under normal operating conditions at each mobile home. The individual size of the feeder water lines shall be a minimum of 6" or more as required by the city engineer.

(c) The water system must be adequate to provide 500 gallons per minute fire flow and maintain a 20 psi residential pressure. All fire hydrants shall be located at no distances beyond 400 feet.

(d) The water supply system shall be connected by pipes to all mobile homes and other facilities requiring water in such a manner that neither underground nor surface contamination will reach the water from any source. All water piping, fixtures, and other equipment shall be constructed and maintained in accordance with the Standard Plumbing Code and Tennessee State Health regulations. Written approval from the Tennessee Department of Health shall be required for all water line extensions.

(e) In the case of all developments, the fire hydrants shall be the 3 way type as specified by city standards.

(2) Sewage disposal. An adequate and safe sewerage disposal system shall be provided in all mobile home parks for conveying and disposing of all sewage. Mobile home parks must connect to an approved public or private sewage disposal system. In no case will a septic tank system or package treatment plant be approved. In addition, the sewage disposal system shall meet the following general requirements:

(a) The sewage disposal system shall be approved in writing by the Tennessee State Health Department and subject to maintenance inspections.

(b) All sewer lines shall be located in trenches of sufficient depth to prevent breakage from traffic or other movements and constructed in such a manner as to have water tight joints. Sewer lines shall be separated from the water supply system and be constructed and maintained in accordance with the Standard Plumbing Code and Tennessee State Health Regulations.

(c) All sewer lines shall be at a grade which will insure a velocity of two feet per second when flowing full and designed for a minimum volume flow of 250 gallons of sewage per day per mobile home.

(3) Electrical distribution. Every mobile home park shall contain an electrical wiring system consisting of wiring, fixtures, and equipment installed and maintained in accordance with the applicable code and regulations governing electrical distribution systems. The electrical distribution system shall also meet the following general requirements.

(a) Main primary lines not located underground shall be suspended at least eighteen (18) feet above the ground. There shall be a minimum horizontal clearance of three (3) feet between overhead wiring and any mobile home or other structure.

(b) All direct buried cables shall be without splices or taps between junction boxes and protected by ridged conduit at all points of entry or exit from the ground. Such cables shall be located no less than eighteen (18) inches below the ground surface and located in a separate trench not less than one (1) foot radial distance from water, sewer, gas, and other piping.

(c) Demand factors for feeder and service lines shall be calculated in accordance with the Standard Building Code to determine the appropriate line sizes.

(4) Gas supply. Natural gas and liquefied petroleum gas systems equipment and installations within a mobile home park shall be designed and constructed in accordance with the applicable codes and regulations. The natural gas supply system shall meet the following general requirements:

(a) Underground piping shall be buried at a sufficient depth to protect it from physical damage as outlined in the Standard Gas Code. No piping shall be installed underground beneath a mobile home or other structure.

(b) All gas regulators, meters, valves and other exposed equipment shall be protected from physical damage by vehicles or other causes.

(c) A readily accessible and identified emergency shut-off valve controlling the flow of gas to the entire internal gas piping system of a mobile home park shall be installed near to the point of connection to the service piping.

(d) Demand factors for use in calculating gas piping systems shall be in accordance with the Standard Gas Code.

(5) Oil supply. Oil supply systems equipment and installations within a mobile home park shall be designed in accordance with the applicable codes and regulations. Oil may be supplied by either an outside underground tank, an outside above ground tank or a centralized oil distribution system designed and installed in accordance with accepted engineering practices which comply with national codes.

(6) Garbage disposal. The storage, collection, and disposal of refuse in a mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. A commercial dumpster system shall be utilized exclusively for solid waste disposal. In addition, the refuse disposal system shall meet the following general requirements:

(a) All refuse shall be stored in fly tight, water tight, and rodent proof containers, which shall be located not more than 150 feet from any mobile home space or lot. These containers shall be located not more than 150 feet from any mobile home space or lot. These containers shall be located on concrete dumpster pads designed to prevent or minimize spillage and container deterioration.

(b) A sufficient number of containers of adequate capacity in accordance with city approval shall be provided to properly store all refuse. The refuse within these containers shall be collected and disposed of on at least a weekly basis in the approved manner. (1989 Code, § 8-510)

14-511. Mobile home site. (1) Every mobile home site shall meet the minimum requirements set forth in this section for the development of individual sites. These criteria are for the purpose of assuring privacy, adequate natural light and air, and convenient access and circulation around each mobile home. The minimum number of sites completed and ready for occupancy before the first occupancy shall be fifty (50) percent of the total sites planned.

(2) Within mobile home parks - Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least twenty-eight (28) feet of open space between mobile homes or any attachment such as a garage or porch, and at least thirty (30) feet end to end spacing between trailers and any building or structure, twenty (20) feet between any trailer and property line and fifty (50) feet from the right-of-way of any public street or highway. In addition, each mobile home space shall contain:

(a) A minimum lot area of four thousand (4,000) square feet.

(b) A minimum depth with end parking of an automobile equal to the length of the mobile home plus thirty (30) feet.

(c) A minimum depth with side or street parking equal to the length of the mobile home plus fifteen (15) feet; and

(d) A minimum width of at least forty (40) feet and a minimum depth of at least seventy-five (75) feet with the limits of each mobile home space being clearly marked by permanent ground stakes.

(3) Each mobile home space shall have an area designated as a mobile home stand or pad which meets all the setback requirements and affords practical access for the placement and removal of a mobile home. It is recommended that these stands consist of runways (24" wide) running vertical to the mobile home and spaced, at a minimum, every eight (8) feet for the length of the mobile home. The stand shall contain piers to serve as load-bearing supports for the mobile home. These piers shall meet the following construction requirements or the Standard Building Code, whichever is the most restrictive:

(a) Piers less than forty (40) inches in height shall be constructed of open or closed cell, eight (8) inch by eight (8) inch by sixteen (16) inch concrete blocks (with open cells vertically placed upon the footer). Single-stacked block piers shall be installed with sixteen (16) inch dimension perpendicular to the main (I-beam) frame. The piers shall be covered with a two (2) inch by eight (8) inch by sixteen (16) inch wood or concrete cap.

(b) Piers between forty (40) and eighty (80) inches in height and all corner piers over three blocks high shall be double blocked with blocks interlocked and capped with a four (4) inch by sixteen (16) inch wood or concrete cap.

(4) All mobile homes shall be secured to the site through an anchorage system consisting of over the top tie downs to restrict overturning and frame tie downs to restrict the unit from being pushed from its piers. These tie downs shall meet the anchorage requirements specified by Tennessee State Statutes and the Standard Building Code for installation and inspection requirements.

(5) An individual water connection shall be provided at each site with at least a 3/4 inch connecting water riser pipe. This pipe shall extend in a vertical position at least four (4) inches above ground level at the appropriate location. Adequate provisions shall be made to prevent the freezing of service lines, valves, and riser pipe. The riser pipe shall be capped when the site is unoccupied. At each site a shut off valve located below the frost line shall be provided near the water riser.

(6) Each site shall be provided with at least four (4) inch corrosive resistant sewer riser pipe. This pipe shall extend in a vertical position at least four (4) inches above the ground level at the appropriate location. This service pipe shall consist of water tight joints and slope at least one-fourth (1/4) inch per foot to a collector line. Provisions shall be made to plug the drain when the site is unoccupied. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line.

(7) Electrical service drops from feeder distribution lines shall be provided, installed, and maintained in accordance with the National Electrical Code and Tennessee Department of Insurance and Banking Regulations Number 15, entitled "Regulations Relating". A weather-proof over-current protection device and disconnecting means shall be provided for each site. All exposed non-current carrying metal parts of the mobile home shall be properly grounded.

(8) Each site provided with natural or liquified petroleum shall have an approved manual shut off valve installed upstream of the gas outlet. Underground piping shall be at a sufficient depth to be protected from physical damage and shall not be installed beneath a mobile home stand unless it is installed in an approved gas tight conduit. Liquified petroleum gas or oil containers shall be securely but not permanently fastened to prevent accidental over-turning. No containers shall be stored within or beneath any mobile home. All gas or oil systems shall be installed and maintained in accordance with the applicable codes and regulations governing such systems.

(9) Off-street parking spaces shall be provided in sufficient number to meet the needs of the occupants and their guests. Such facilities shall be provided at the rate of at least three (3) spaces per mobile home. The size of the individual parking space shall consist of a minimum width of not less than ten

(10) feet and a length of not less than twenty-two (22) feet. Each space shall be constructed of either a hot mix or concrete hard surface.

If necessary, driveways with a minimum of eight (8) feet in width shall be provided to the spaces. These shall be of the same construction as the spaces and shall have a flare entrance for safe and convenient ingress and egress. All mobile home stands shall be connected to the parking spaces and the driveway by some type of individual hard surfaced walk system.

(10) It is recommended that provision be made for external storage facilities at each site. These facilities should be designed in a manner that would enhance the appearance of the development. Any such facility shall be confined within the exterior boundaries of the site and meet the applicable setbacks for such a facility. (1989 Code, § 8-511)

14-512. Service facilities. (1) The requirements of this section shall apply to permanent service facilities including, but not limited to management offices, laundry facilities, sanitary facilities. Such facilities are required for developments for the convenience of the occupants. All recreational open space shall consist of a minimum area of not less than 100 square feet per space.

(2) Every permanent service facility shall be designed, constructed, and located in accordance with the applicable codes and regulations of the city. These also include the building, electrical, gas, and plumbing codes of the county. Each structure shall meet the same minimum setback requirements as outlined in this chapter for mobile home stands or pads with greater setback recommendations. Parking requirements for such facilities shall be as determined by the planning commission. (1989 Code, § 8-512)

14-513. Miscellaneous requirements. (1) The development shall be maintained free of insect and rodent harborage and infestation. Where the potential for insect, and rodent infestation exists, extermination methods which conform to the requirements of the health authority shall be utilized to control such.

(2) The growth of brush, weeds, and grass in open areas shall be controlled and maintained to prevent heavy undergrowth of any description. Special emphasis shall be on the prevention of the growth of ragweed, poison ivy, poison oak, poison sage, and other noxious weeds considered to be detrimental to health.

(3) Care shall be taken to control dry brush, litter, rubbish and other such flammable materials which might communicate fire between mobile homes and other structures.

(4) A mobile home shall not be occupied for dwelling purposes unless it is properly installed on a mobile home stand and connected to all utilities. The park management shall supervise such installations.

(5) No mobile home shall be admitted to a mobile home park unless it can be demonstrated that it meets the requirements of the Mobile Home

Manufacturers Association Mobile Home Standards for Plumbing, Heating, and Electrical Systems or any state administered code insuring equal or better systems. Mobile homes manufactured prior to 1976 shall be exempt from this requirement.

(6) No dogs, cats, or other domestic animals shall be permitted unrestrictive freedom within the limits of a mobile home park. Any kennels or pens for such animals shall be maintained in a sanitary condition at all times.

(7) Pre-existing mobile home parks shall comply with all state regulations applicable thereto which were in force prior to the establishment of this mobile home park resolution. Expansion of these mobile home parks shall be limited to twenty-five (25) percent of their size as of September 2, 1982. Further expansion shall only occur after compliance with the requirements of this chapter.

(8) Every mobile home park within the city shall be operated with adequate supervision to assure the park, its facilities and equipment are maintained in good repair and operated in a clean and sanitary condition at all times.

No travel trailers shall be placed on a mobile home stand or connected to utilities either in a mobile home park for occupancy as a dwelling unit. (1989 Code, § 8-513)

14-514. Enforcement. (1) It shall be the duty of the building inspector to enforce the provisions of this chapter and the duty of those inspectors specifically mentioned in § 14-505 of this chapter to enforce those regulations under their jurisdiction as those regulations apply to this chapter.

(2) The developer or the person to whom a permit for a mobile home park is issued shall be the sole individual responsible for compliance with this chapter and the other related regulations. Actions toward the enforcement of this chapter and all other related regulations shall be directed toward the person to whom the mobile home park permit is issued. (1989 Code, § 8-514)

14-515. Amendment. (1) Whenever the public necessity, convenience or general welfare justifies such action, the board of commissioners may amend or supplement this chapter. Any person may petition the board of commissioners for an amendment or amendments to this chapter.

(2) Any proposed amendment or supplement shall be first submitted to the planning commission for its recommendation to the board of commissioners. (1989 Code, § 8-515)

14-516. Penalties. (1) Any person or corporation who violates the provisions of this chapter or the rules and regulations adopted pursuant thereto, or fails to perform the reasonable requirement specified by the building inspector or other inspectors with jurisdiction after receipt of thirty (30) days written notice of such requirements, shall be fined according to the general

penalty provisions of this code of ordinances and each day shall constitute a separate offense, subsequent to the receipt of said thirty (30) days.

(2) In any case any structure is erected, constructed, reconstructed, repaired, converted, or maintained, or any structure or land is used in violation of this chapter, the building inspector or any other appropriate authority, or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies may institute injunction, mandamus, or other appropriate action or proceeding to prevent the occupancy of such structure or land. (1989 Code, § 8-516)

CHAPTER 6

MODEL HOMES

SECTION

- 14-601. Title and purpose.
- 14-602. Definition.
- 14-603. Permit required.
- 14-604. Not to become a nuisance.
- 14-605. Violations and fines.
- 14-606. Use of model homes.

14-601. Title and purpose. The purpose of this chapter is to protect the health, safety and welfare of the citizens of Lakeland by controlling the type, number, location, etc. of model homes within a subdivision development; to prevent disruption of life of residents within a subdivision development; and to enhance the quality of the environment. (Ord. #183, May 1996)

14-602. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivation shall have the meaning given herein:

"Model home." A residential structure that: may or may not be furnished; may or may not have displays of building materials such as carpets, wallpaper, paint colors or layouts of subdivision plans or different home plans for the subdivision wherein the model home is located; and that may be staffed with sales agents or real estate brokers to show, assist and contract with a potential purchaser. (Ord. #183, May 1996)

14-603. Permit required. Except as otherwise provided in this chapter, it shall be unlawful for any person to erect, construct, enlarge, move or convert any model home in the city, or cause the same to be done, without first obtaining a model home permit as required by this chapter.

(1) One (1) model home for each may be permitted in a subdivision or planned residential development with a maximum of three (3) model homes per subdivision development allowed regardless of the number of phases, sections or builders.

(2) All applications for a model home permit must be reviewed by the city manager or his designate and shall be accompanied by such information as may be required to assure compliance with all appropriate laws and regulations of the city including but not limited to:

- (a) Name, address and phone number of owner.
- (b) Name, address and phone number of applicant.
- (c) Name, address and phone number of owner of the premises where the model home is to be located.

- (d) Intended use of the model home.
- (e) Clear and legible site plan.
- (f) Hours of operation, provided that said hours shall not be earlier than 9:00 A.M. and not later than 7:00 P.M.
- (g) Number of employees or sales agents to work in the model home, provided that not more than two (2) employees or sales agents work in each model home during hours of operation regardless of the number of models per subdivision.

(3) A non-refundable permit fee will be required per model home to be submitted at the time of application. This fee shall be an amount resolved by the board of commissioners.

(4) The permit shall be issued for a one (1) year period and may be extended until all lots have been sold in the phase or section where the model home is located, however, such extensions shall not exceed two (2) successive one hundred eighty (180) day periods. The permit extension fee shall be an amount resolved by the board of commissioners. (Ord. #183, May 1996, modified)

14-604. Not to become a nuisance. (1) Pedestrian and vehicular traffic shall be controlled by the permit holder, at no expense to the City of Lakeland, by traffic devices, no parking signs, security or traffic management personnel, etc.

(2) Pedestrian and vehicular traffic shall be controlled wherein other residents will not be disturbed and it will not become a nuisance.

(3) If more than 50% of the residents in a 2,000 foot radius of any model home is adversely affected, then it shall be considered a violation of permit.

(4) No music, public address systems, signs or fences in violation of current Lakeland ordinances shall be allowed in or on the model homes. All other ordinances and/or requirements of the City of Lakeland, Tennessee must be adhered to. (Ord. #183, May 1996)

14-605. Violations and fines. (1) Any violation not corrected within five (5) working days from the date of written notice by the city manager or his designate shall be considered a breach of permit.

(2) A fine of fifty dollars (\$50) per day per violation shall be assessed without recourse on the part of the permit holder.

(3) Said model home shall be closed until all violations are corrected and approved by the city manager. (Ord. #183, May 1996)

14-606. Use of model home. The model home shall not be used for the sale of construction materials, interior or exterior, to include paint, wallpaper, carpets, etc. but only displays for the purpose of comparison and selection. (Ord. #183, May 1996)

CHAPTER 7

FENCES AND WALLS

SECTION

- 14-701. Title and purpose.
- 14-702. Definitions.
- 14-703. General requirements.
- 14-704. Double frontage lots.
- 14-705. Multi-family, commercial institutional or subdivision developments.
- 14-706. Conflict with other provisions.
- 14-707. Nonconforming fences.
- 14-708. Appeals.
- 14-709. Enforcements.
- 14-710. Acceptable fencing, wall and landscape screening examples.

14-701. Title and purpose. The purpose of this chapter is to establish regulations to enhance the quality of life, health, safety, welfare, aesthetics and general environment of the city by regulating the erection of fences and/or walls and establishing landscaping and maintenance standards therefore. (1989 Code, § 4-401)

14-702. Definitions. In addition to those definitions contained in Article II of the Lakeland Zoning Ordinance which may relate to this chapter and for purposes of this chapter, the following additional terms, phrases, words and their derivation shall have the meaning given herein:

(1) "Abandoned fences." A fence which no longer is being maintained or kept in good state of repair, maintenance or upkeep within the parameters established by this chapter.

(2) "Dog run." An enclosed, fenced area within the perimeters of a yard or legal tract of land wherein three (3) or less dogs or cats or any combination of three (3) or less animals are kept, whether by the owner of the animals or by other persons, with or without compensation.

(3) "Double frontage lot." A lot having frontage on two (2) non-intersecting streets as distinguished from a corner lot.

(4) "Illegal fence." Any fence which is prohibited by this chapter, or a non-conforming fence.

(5) "Kennel." A place where four (4) or more cats or dogs or any combination of four (4) such animals are kept, whether by the owners of the animals or by other persons, with or without compensation.

(6) "Non-conforming fence." Any fence which was lawfully erected and maintained prior to such time as it came within purview of this code and any amendments thereto, and which fails to conform to all applicable regulations

and restrictions in this code, or a non-conforming fence for which a special permit has been issued.

(7) "Off-premise fence (off-site fence)." Any fence not physically located within the confines of an established lot or legal tract of land.

(8) "Person." Any individual, firm, co-partnership, corporation, company, association, trustee, receiver, assignee or other similar representative thereof.

(9) "Setback lines." The line nearest the street and across a lot establishing the minimum open space to be provided between buildings and specified structures and street or property lines.

(10) "Temporary fence." Any fence which is by reason of construction or purpose intended to be displayed for a short period of time. Unless specifically stated elsewhere in this chapter, a period of three (3) months is the maximum time limit for temporary fence usage. Temporary construction site fences may exceed the three (3) month time frame, but will be removed prior to final site plan and/or final construction inspection approval.

(11) "Tether run." A tethered line to which an animal is restrained within a yard or legal tract of land. (1989 Code, § 4-402)

14-703. General requirements. The following general criteria will apply:

(1) The maximum height of any fence or wall shall be six (6) feet except:

(a) Tennis court fencing may be a maximum of ten (10) feet in height.

(b) All other athletic field fencing shall be subject to approval of the design review commission on an individual basis in accordance with accepted conventions for the sport involved.

(c) Fences and/or walls in Commercial (C-1 & C-2), Industrial (M-1), Multiple-Family (M-R) or Forestry, Agricultural and Residential (FAR) districts may exceed six (6) feet in height when specifically approved by the design review commission.

(d) On lots where steep slopes exist at property lines, fences may exceed six (6) feet to a height that would not exceed six (6) feet above the existing yard or house grade. Any such fence height above ten (10) feet must be justified and approved by the design review commission and may require special. (See § 14-710 for examples.)

All proposals for fences or walls in excess of six (6) feet in height must be submitted to the design review commission for approval and must be accompanied by appropriate documentation justifying such additional height.

(2) Solid fences and walls over thirty (30) inches in height are not permitted within the required front yards or lots as specified in the zoning ordinance with the following exceptions:

- (a) On double frontage lots.
- (b) Periodic posts, decorative columns, lighting fixtures or other decorative detail may exceed the thirty (30) inch height limit.
- (c) Front yard fences in FAR districts wherein animals are maintained may be a maximum height of forty-eight (48) inches in height.
- (d) Width parameters for front yard requirements in FAR districts may be varied and will be reviewed by the design review commission on a case by case basis for approval. Applicants for such fencing shall submit design documentation adequate for review by the commission.

Heights in excess of forty-eight (48) inches in FAR districts front yards may be approved by the design review commission upon the merits presented in each case.

(3) No solid fence or wall over thirty (30) inches in height shall be placed within twenty-five (25) feet of any street corner, the corner being defined as the intersection of the right-of-way lines of the two (2) streets.

(4) All perimeter fencing or walls shall provide aesthetic values for off-site public viewing. The exterior surfaces and street sides of all fences shall be the finished side.

(5) Materials for fences or walls to be constructed in residential front yards may be split wooden rails, wrought iron, masonry and/or aluminum or durable wood pickets of two (2) inches or less in width, placed at a minimum of six (6) inches on center (including those with brick or stone columns). In addition to the foregoing, front yard fences or walls in FAR districts may be constructed of woven wire, barbed wire, masonry, durable wood (or combinations of masonry and durable woods) that do not substantially impede visibility. All others are subject to the approval of the design review commission. Specifically prohibited in front yard fencing or walls are the following materials:

- (a) Exposed plain cinder or concrete blocks.
- (b) Metal mesh fencing (FAR districts excepted).
- (c) Barbed wire (FAR districts excepted).
- (d) Single wire fencing (FAR districts excepted).
- (e) Razor Wire.

(6) Solid fences and walls in excess of thirty (30) inches in height which are substantially opaque and serve as visual barriers are not permitted within twenty-five (25) feet of the water's edge on residential lots abutting a lake. No landscaping of any variety or type will be allowed on these fences or walls that will exceed a height of thirty (30) inches. Applications for fences in excess of thirty (30) inches for these areas must reflect an approved material that does not substantially impede visibility and will be subject to approval by the design review commission.

(7) No fence or wall constructed of barbs, spikes, razor wire, glass, broken glass and the like and electrical fence, any of which are reasonably calculated to do bodily harm, shall be permitted in any of the yards except:

(a) Forestry, Agricultural & Residential (FAR) districts may erect barbed wire and single wire electrical fencing for agricultural uses only.

(b) Commercial (C-1 & C-2) and light industrial (M-1) districts may erect PVC, chromate or vinyl clad barbed wires strands atop approved security fencing upon approval of the design review commission.

(8) Solid fences and walls in all districts which are substantially opaque and serve as visual barriers shall be composed of masonry, durable woods, or combination of masonry and durable woods.

(9) Earth tone colors of PVC, chromate or vinyl coated chain link fabric fencing, terminal posts, line posts and rails are also acceptable for side and rear yard fencing in all districts. The use of plain galvanized chain link fence fabric, posts or rails for side or rear yard fencing is specifically prohibited for use in all zoning districts except FAR.

(10) No fence shall impede or divert the flow of water through any drainage way unless, by adequate investigation by the city engineer, it can be determined that such fence will not adversely impact any property owner and will contribute to an improvement in the overall drainage system.

(11) It is the responsibility of the property owner to have located and marked all existing public utilities prior to erection of any fence or wall. No fence or wall shall block access to any fire hydrant, utility equipment or any above-ground pad-mounted electrical transformer installed and maintained in accordance with the rules and regulations of Memphis Light, Gas and Water (MLG&W) and the ordinances, rules and regulations of the city, from the street right-of-way so as to provide fifteen (15) feet clear access to the transformer doors for operation and maintenance at all times.

(12) Swimming pools four (4) feet deep at any point must have a minimum four (4) foot fence surrounding the yard or pool area. Gates must be self-latching with latches placed four (4) feet above the ground or otherwise made inaccessible from the outside to small children.

(13) All dog runs, tether runs and/or kennels shall be screened from public view by an appropriate planting screen.

(14) Fencing in all districts shall at all times be maintained and kept in good repair by the lot owner including maintenance and upkeep of all grass, weeds and noxious growths ensuring such growths do not exceed heights of nine (9) inches, except in FAR districts wherein this height requirement may exceed the nine (9) inch limit. All such cuttings, clippings and other debris are not to be allowed to accumulate and shall not be left adjacent to the property lines.

(15) Any fences which do not conform to the provisions of this ordinance shall be regarded as non-conforming fences. The locations, size, material and other structural characteristics of such non-conforming fences shall be governed by these provisions. Maintenance standards and requirements imposed upon such non-conforming fences pursuant to previous ordinances and regulations applicable prior to the passage of this chapter may be continued until replaced

but will be repaired and maintained up to standards established by this chapter provided they are not determined to be an imminent threat to the safety or health of the community. If the owner of the lot or legal tract on which said non-conforming fences exists fails to so maintain or repair said non-conforming fences to these standards within one (1) year of the passage of this code, the city manager or city engineer shall cause said non-conforming fence to be removed with the costs and expenses to be assessed against the lot owner as a special assessment as provided in § 14-709 of this code. (1989 Code, § 4-403)

14-704. Double frontage lots. Due to the exceptional nature of double frontage lots, fences with frontage on a street to which access to such lot is not permitted will be subject to § 14-702 and the following provisions:

(1) Such fences shall not be constructed of untreated or non-durable wood, plastic, chain link, or wire.

(2) An appropriate planting screen such as that shown in § 14-710 may be required. Such planting screen shall be in place within six (6) months from the time the fence permit is issued.

(3) Only solid fences similar in design to those shown in § 14-710 shall be allowed, and then only when the following requirements are met:

(a) Within any one hundred (100) foot section of a wooden fence, no more than fifty (50) percent or fifty (50) feet of the fence shall be on the property line or any line parallel thereto. (See § 14-710 for examples.)

(b) The remaining fifty (50) percent or more of the one hundred (100) foot section of a wooden fence must be set back from six (6) feet to fifteen (15) feet with evergreen planting inserted to break up a stockade appearance. (See § 14-710 for examples.)

(c) The entire wooden fence may be built fifteen (15) feet or more from the property line with evergreen screening to break up a continuous appearance effect. (See § 14-710 for examples.)

Set back and/or screening requirements outlined above for solid wooden fences will not be required for those wooden fences using brick or other approved masonry columns at lot property lines and at intervals of no less than fifty (50) feet between said property lines. (See § 14-710 for examples.)

(d) Solid brick or other masonry fencing approved by the design review commission shall be decorative in appearance with columnar designs placed at each lot property line and at no more than every fifty (50) feet intervals between said property line columns.

(e) Gates may be required by the design review commission enabling each property owner access for maintenance and upkeep of adjacent street right-of-ways.

Such gates shall be self-locking from the property owner's side of the fence only. Said locking devices shall be no lower than forty-eight (48) inches from the ground level to provide child safe characteristics.

(4) Maintenance and landscaping double frontage lot fencing.

(a) Fence material; condition. All fences on double frontage lots shall comply with the provisions contained herein. In addition thereto, all such fences erected on double frontage lots shall be of such material as to be resistant to disease and decay or shall be treated with substances to prevent such disease or decay. All such fences shall at all times be maintained and kept in good repair by the lot owner of such double frontage lot.

(b) Grass, shrubs, trees; condition; height of grass. All shrubs, trees and other landscaping located between the curb line or paved edge of the roadway and the fence on such double frontage lots and all grass or planted surfaces shall be maintained at all times by the lot owner of such double frontage lot. All grass, weeds, and noxious growths shall be mowed, cut or clipped, as frequently as necessary to insure that weeds, grass, and noxious growths do not exceed a height of nine (9) inches. Cuttings and clippings and other debris shall not be allowed to accumulate and shall not be left adjacent to the property lines.

(c) Maintenance of shrubbery. All trees, shrubs, grasses, and other landscaping as required herein, on double frontage lots shall be properly maintained to remain in a healthy growth state, and any dead growth shall be removed and replaced by such trees, shrubs, grasses and other landscaping as complies with the code and which is substantially identical with such previous landscaping material or with other landscaping material as approved by the design review commission.

(d) Non-conforming fences and landscaping. Any fences or landscaping on double frontage lots which do not conform to the provisions of this chapter, shall be regarded as non-conforming fences and landscaping. The location, size, material, and other structural characteristics of such nonconforming fences and landscaping shall be governed by the provisions of § 14-702. The maintenance standards and requirements imposed on such non-conforming fences and landscaping pursuant to previous ordinances applicable prior to the passage of this code may be continued for a period of one (1) year from the passage of this code, provided such non-conforming fences and landscaping are not determined to be an imminent threat to the safety or health of the community. Any non-conforming fences or landscaping which are found to contain maintenance deficiencies in violation of this section shall be brought into compliance within one (1) year from the passage of this code. If the owner of the lot on which said non-conforming fences or landscaping exists fails to correct said maintenance deficiencies within one (1) year from the passage of this code, the city manager or city engineer shall cause such maintenance and corrective action to be taken with the costs and expenses to be assessed against the lot owner as a

special assessment as provided in the foregoing sections of this code. (1989 Code, § 4-404)

14-705. Multi-family, commercial, institutional or subdivision developments. Fences proposed for multi-family, commercial, institutional or subdivision developments must satisfy the requirements of the design review commission and the intent of this chapter. Developers will be required through subdivision covenants or project development contracts to address fencing requirements as well as to erect certain fences for buffering purposes. (1989 Code, § 4-405)

14-706. Conflict with other provisions. (1) This chapter is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of this chapter imposes restrictions different from those imposed by any other provision of this chapter, or by any other ordinance, rule or regulation of the provision of law, whichever provisions are more restrictive or impose higher standards shall control.

(2) This chapter is not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of this chapter are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restrictions, the requirements of this chapter shall govern. (1989 Code, § 4-406)

14-707. Nonconforming fences. Any fence erected lawfully prior to September 7, 1989 may be maintained in its present condition. However, no fence may be substantially altered except in conformity with the provisions of this chapter. This chapter shall not be construed as abating any action now pending under, or by virtue of, prior existing regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, or as waiving any right of the city under any section or provision existing on September 7, 1989, or as vacating or annulling any rights obtained by any person by lawful action of the city except as shall be expressly provided for in this chapter. (1989 Code, § 4-407)

14-708. Appeals. (1) Any person aggrieved by a decision or order of the building official may appeal, within a period not to exceed ten (10) days from said action, to the Lakeland Design Review Commission (LDRC) by serving written notice with the city manager or city recorder who, in turn, shall immediately transmit the notice to said commission which shall appeal at a regular or special meeting within forty-five (45) days thereof. Should the design review commission fail to hear the appeal within said forty-five (45) days, the appeal shall be referred directly to the Lakeland Board of Appeals. The building

official shall take no further action on the matter pending the design review commission's decision.

(2) The decision of the LDRC may be appealed directly to the Lakeland Board of Appeals upon written notice of appeal to the board within five (5) days of said action. This appeal shall be heard at a meeting as prescribed by the board of appeals bylaws. The board may accept, reject or modify the action of the LDRC and shall require a minimum of three (3) affirmative votes of the board and in the absence thereof, the action of the LDRC shall become final and binding. (1989 Code, § 4-408)

14-709. Enforcement. (1) Enforcing officer. It shall be the duty of the city manager or city engineer to administer and enforce the provisions of this chapter. The city manager or city engineer shall have the power to make inspections necessary to carry out his duties.

(2) Permits. It shall be unlawful to commence the erection of a fence within the corporate limits of the City of Lakeland until the city manager or city engineer has issued a permit for such work.

(a) Exceptions. Permits will not be required for fences in FAR districts except for front yard and double frontage lot fencing as addressed in §§ 14-703 and 14-704.

(b) Applications. Applications for fence permits will be available at city hall. A non-refundable fee of thirty dollars (\$30.00) must accompany each application.

(c) In applying to the city manager or city engineer for a fence permit, the applicant shall submit a dimensional sketch or scale plan indicating the shape, size, height, and location on the lot of any fence to be erected, altered, or moved and of any other buildings on the lot and all drainage from, onto, or through the lot. Applicants for fence permits in FAR districts shall provide additional presentation in documentation submission requirements to allow adequate review for approval for front yard width determination being requested under the foregoing provisions of § 14-703(2)(d). If the proposed fence complies with the provisions of this chapter and other ordinances of the city, the city manager or city engineer shall issue a permit for such activity. If the application is refused, the city manager or city engineer shall state the refusal and cause in writing.

(3) Violation. Any person violating any provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as provided herein. Each day's continuance of a violation shall be considered a separate offense. The owner of any premises, or part thereof, where anything in violation of this chapter shall be placed, or shall exist, any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense. Persons in violation of this chapter may also be subject to injunctive proceedings.

(4) Penalty. Any person, firm or corporation violating any provision of this code shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than fifty dollars (\$50.00). Each day's continuance of a violation shall be considered a separate offense. The owner of any premises or a part thereof, where anything in violation of this ordinance be placed, or shall exist, and any person, firm or corporation who may have knowingly assisted in the commission of any such violation or shall have permitted such violation to occur shall be guilty of a separate offense. Persons in violation of this ordinance shall also be subject to injunctive proceedings to enforce compliance therewith.

(5) Notice of alleged violation; assessment against lot owner if convicted. In addition to the penalty set forth in this code, upon the failure of any lot owner to maintain such fences and landscaping as required by this chapter, upon ten (10) days written notice from the city manager or city engineer to the last known address of such lot owner, the city manager or city engineer is authorized and directed to have such maintenance or repairs performed with the cost and expenses thereof to be assessed as provided in this section. Such notice shall be served personally to the lot owner or may be posted on the lot or may be mailed by registered or certified mail. Such maintenance may be performed by city forces or by retention of services from a private contractor to perform on the city's behalf in accordance with the city's contracting and purchasing procedures. All costs and expenses, including inspections and other expenses, incurred by the city pursuant to this section, but not less than the minimum amount established by the administration for such maintenance shall be assessed against the lot. It shall be the duty of the appropriate city and/or county official or his designee to collect, as a special tax, the amount so assessed at the time that city and/or county taxes are levied against properties on which such maintenance work was performed. Such special tax shall constitute a special assessment against such offending lot and shall be collected as general taxes levied by the city and/or county.

(6) Severability. If any section of provision or this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid. (1989 Code, § 4-409)

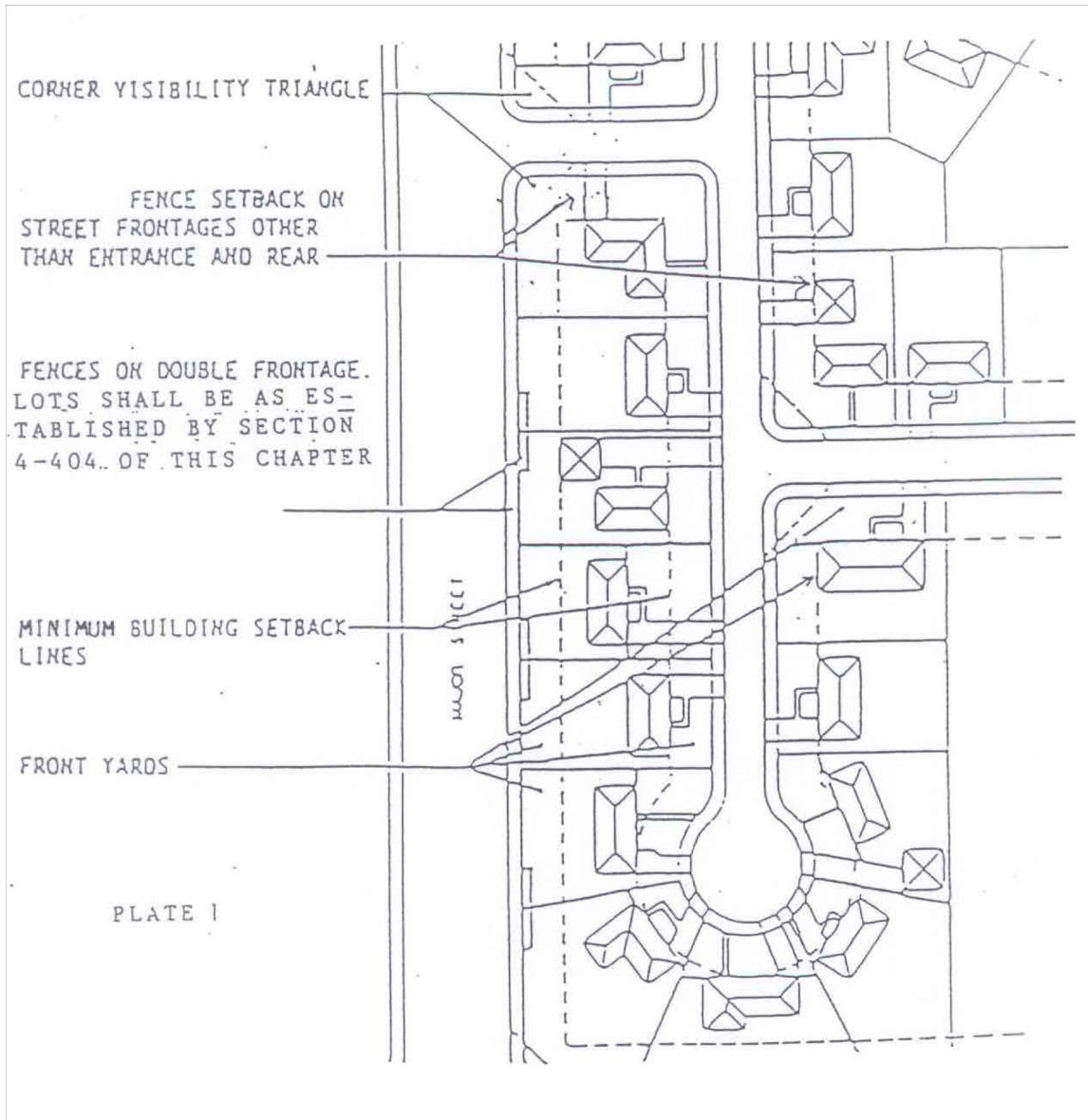
14-710. Acceptable fencing, wall and landscape screening examples.

PLATE.

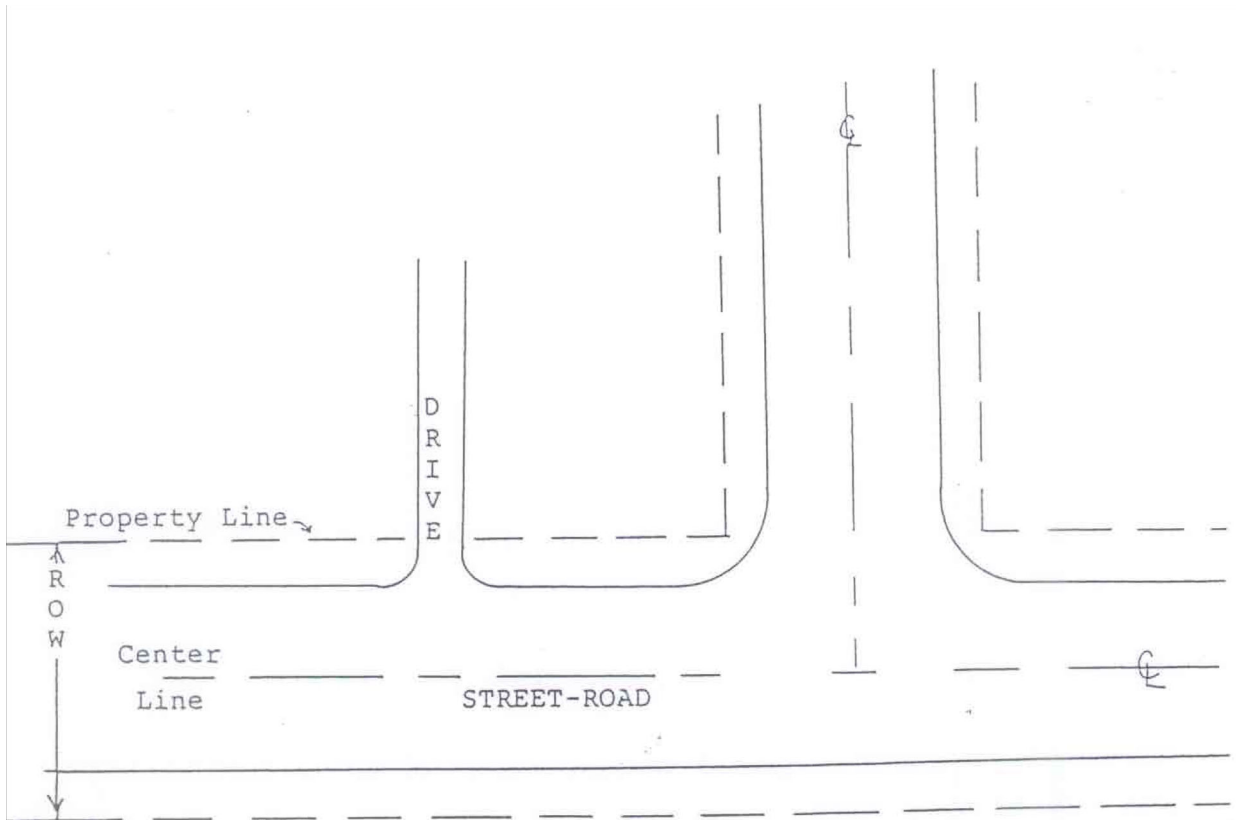
- (1) Typical Fence Setback.
- (2) FAR District Front Yard Setbacks.
- (3) Acceptable Standards.
- (4) Double Frontage Lots, Planting Screen.

(1989 Code, § 4-410)

14-710(1). Typical fence setbacks.



14-710(2). FAR district front yard setbacks.



* Setbacks in Farm, Agriculture, or Residential (FAR) districts to correspond with property lines on dedicated street/road Right-of-Ways. Should records not reflect dedications, setbacks shall be determined from street/road center lines to the required distances at the designated street/road as described by Article III, A-5, LAKELAND SUBDIVISION REGULATIONS.

14-710(3). Acceptable standards.

CUSTOM WOOD FENCING

PLATE 3

CUSTOM WOOD PRIVACY FENCE

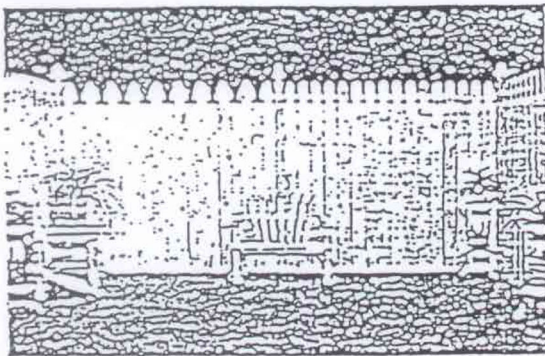
Aluminum Nails—To avoid tear stains.
 Back rail 2" x 3" All Kiln Dried Prime material.
 Board: 1" x 4", and 1" x 6" Kiln Dried
 Available in: Spruce
 Cedar
 Red Wood
 Wolmanized .
 Heights: 36"—72", 34"—36". Lengths: 96"
 Pressure Treated Post 4" x 4"

Standard models are always in stock and custom designs available upon request.

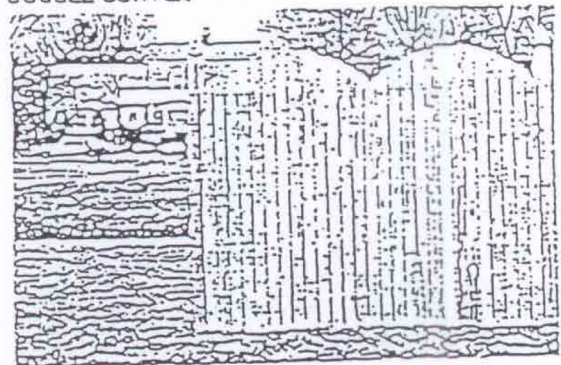
- Models: Gothic
 Half Gothic
 Double Convex
 Single Convex
 Double Concave
 Concave
 Board on Board

GOthic

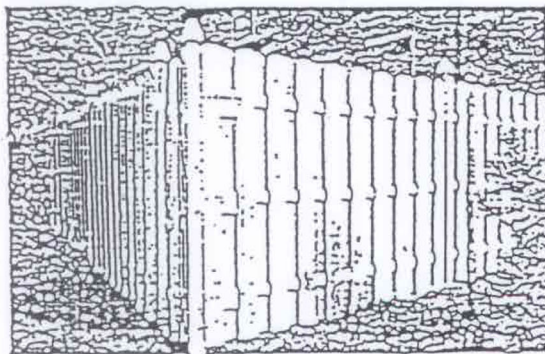
HALF GOthic



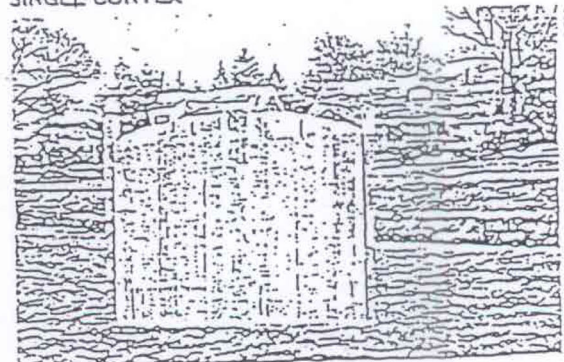
DOUBLE CONVEX



BOARD ON BOARD



SINGLE CONVEX



DOUBLE CONCAVE

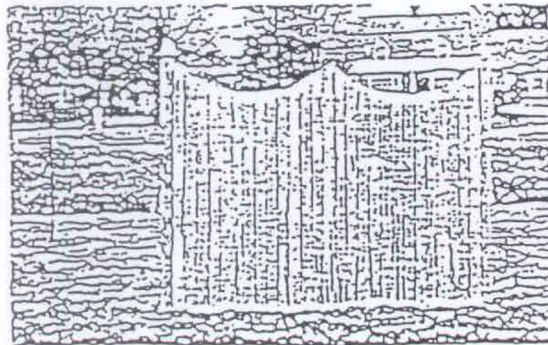
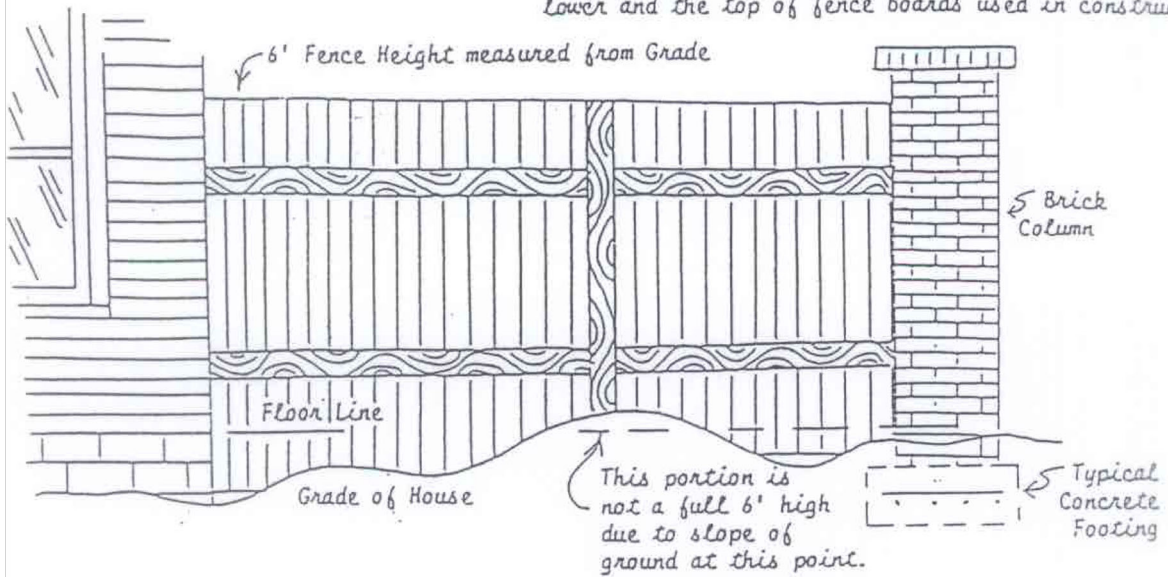


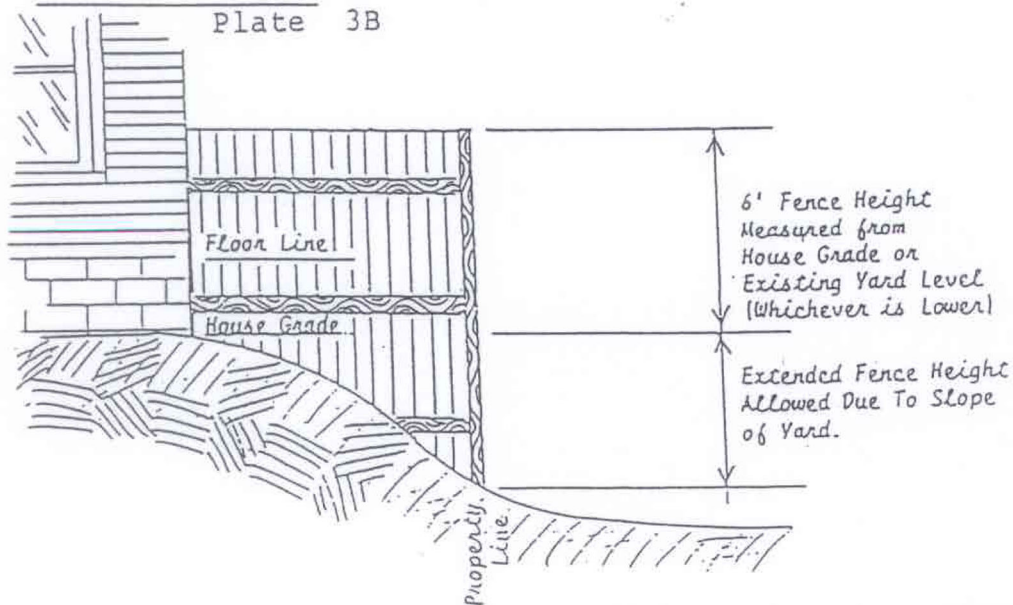
Plate 3A

Note: 6' Fence Height is determined by measuring height above house grade or existing yard whichever is lower and the top of fence boards used in construction.



All designs for fences over 6' in height shall be submitted to the Design Review Commission for approval, designs must be accompanied by appropriate documentation justifying additional height.

Plate 3B



On lots where steep slopes exist at property lines, fences may exceed six (6) feet to a height that would not exceed six (6) feet above the existing yard or house grade, whichever is lower.

Plate 3C

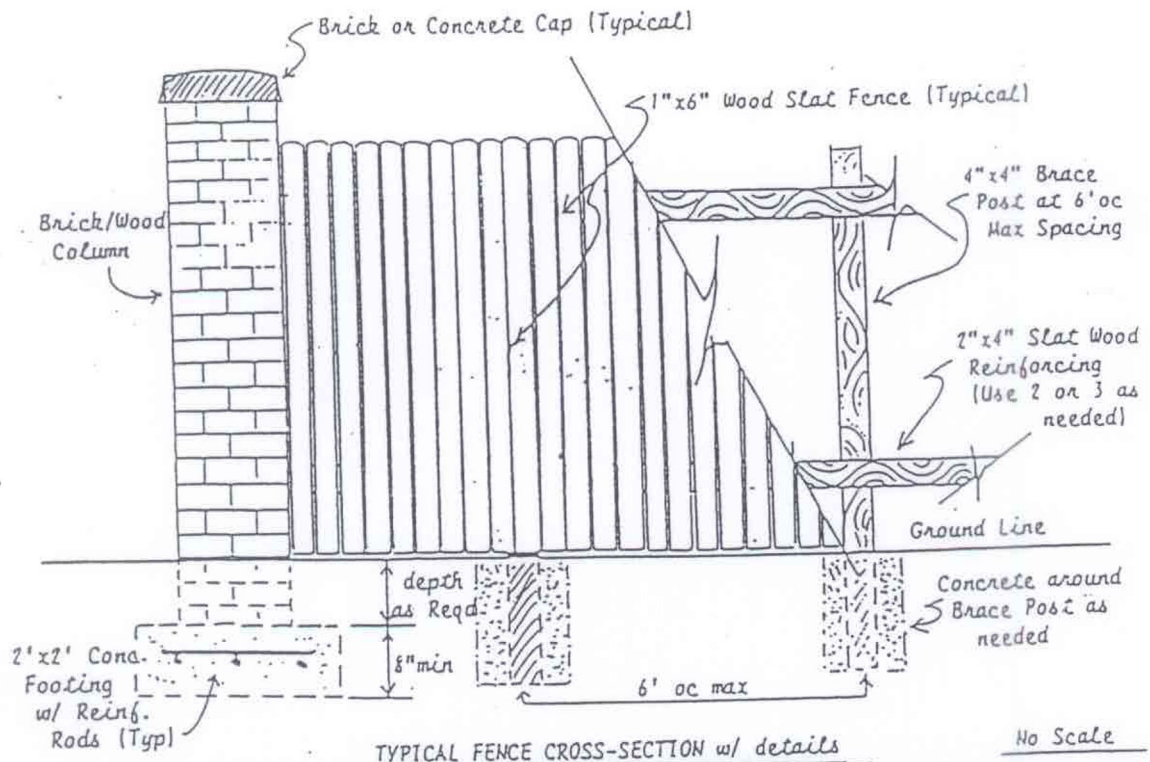
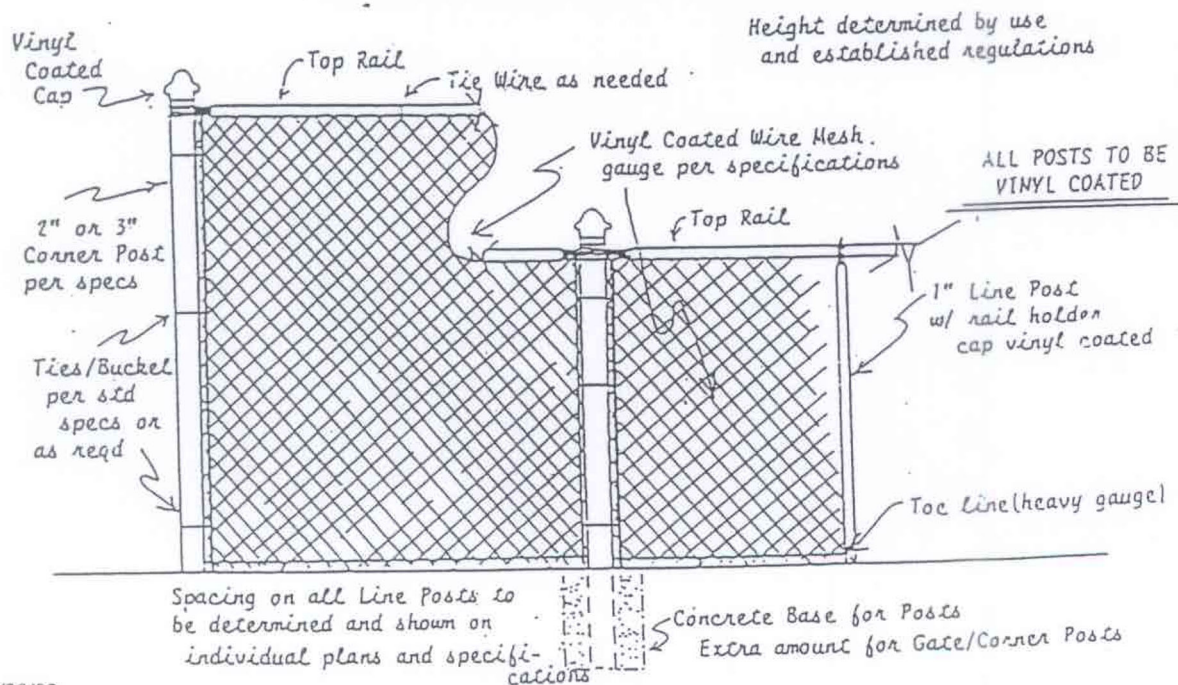


Plate 3D

TYPICAL VINYL COATED FENCE SECTION

No Scale

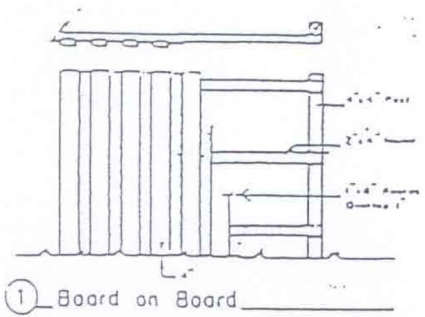


14-710(4). Double frontage lots, planting screen.

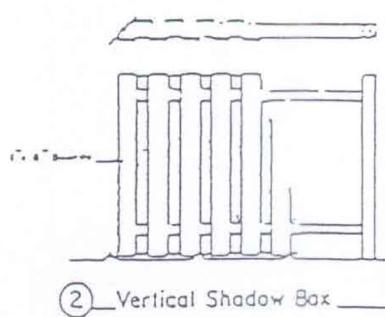
PLANTING SCREEN WOOD FENCES FOR DOUBLE FRONTAGE LOTS
CITY OF LAKE LAND

PLATE 4

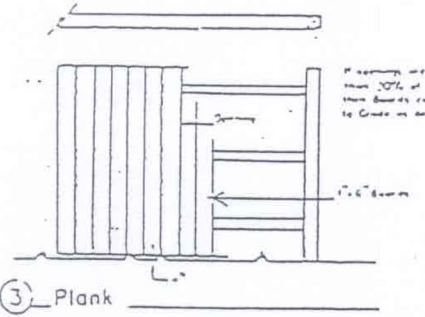
LAKE LAND CODE



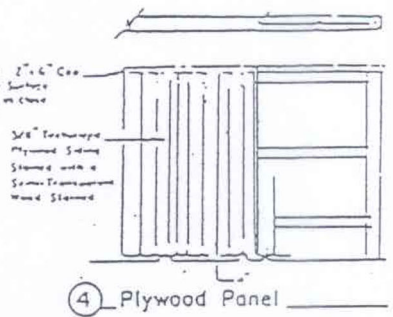
① Board on Board



② Vertical Shadow Box

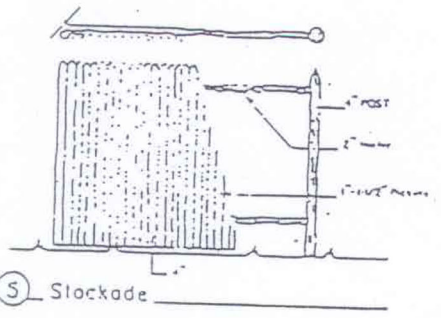


③ Plank

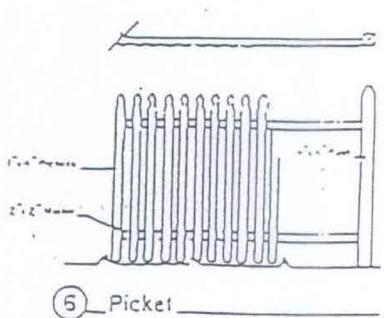


④ Plywood Panel

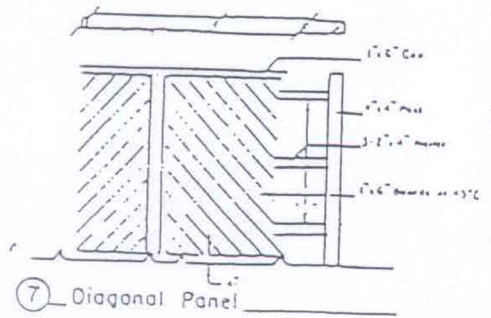
PLANTING SCREEN WOOD FENCES FOR DOUBLE FRONTAGE LOTS
CITY OF LAKE LAND



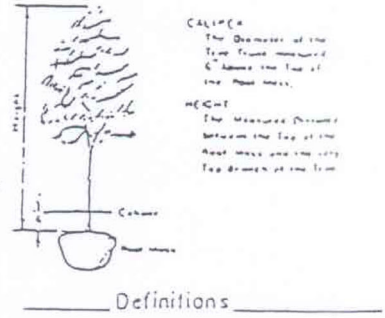
⑤ Stockade



⑥ Picket



⑦ Diagonal Panel



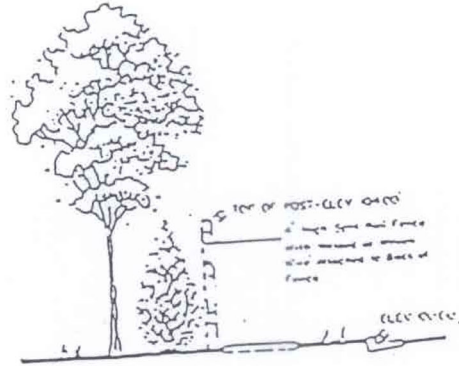
FENCES

TYPE "A"
SHADE TREE (2'-2 1/2" cal.)

- WILLOW OAK
- SCARLET OAK
- PIN OAK
- BALD CYPRESS
- MAGNOLIA

SHRUBS (Minimum 36" High)

- RED LEAF MOTILIA
- WAX LEAF LIGUSTRUM
- FLORIDA JASMINE
- VARIEGATED PRIVET
- PYRAEANTHA
- ELAENHUS

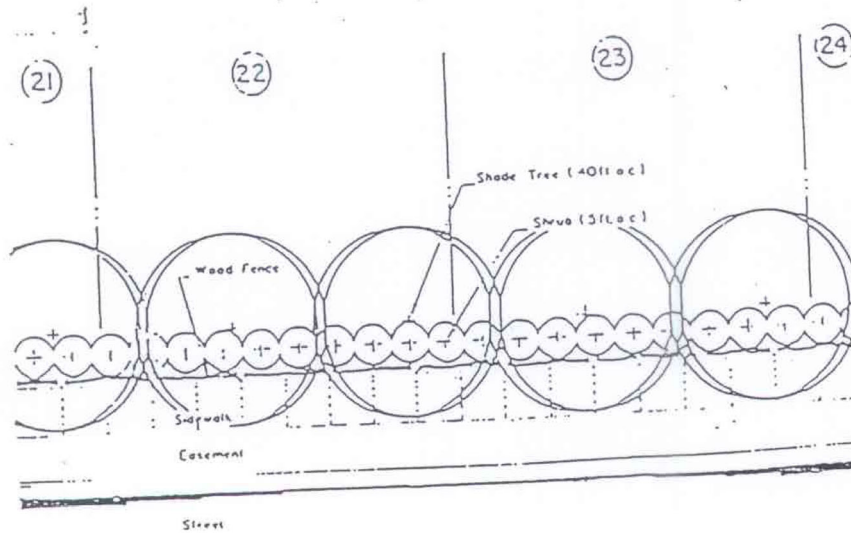


SECTION

PLANTING SCREEN A - FOR DOUBLE FRONTAGE LOTS

SHEET 1 OF 2

PLATE 4A



PLANTING SCREEN A - FOR DOUBLE FRONTAGE LOTS

SHEET 2 OF 2

PLATE 4A

FENCES

TYPE "A" (SHADE) TREES (2" - 2 1/2" cal.)

- WILLOW BARK
- PIN OAK
- SCARLET OAK
- BALD CYPRESS
- MAGNOLIA

TYPE "B" (SHADE) TREES (2" - 2 1/2" cal.)

- TULIP TREE
- HONEYLOCUST
- RED MAPLE

LARGE SHRUBS (Minimum 36" High)

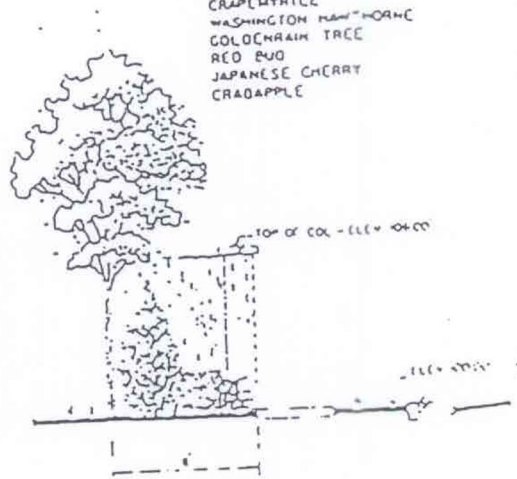
- GRAPHELOIDUM
- GRASS TREE EUCALYPTUS
- WAXMYRTLE EUCALYPTUS
- RED LEAF FUCHSIA
- JAPANESE CLETHRA

SMALL SHRUBS (Minimum 18" High)

- ANY HIGH SHRUB
- MUGNIFLORA
- JAPANESE HOLLY (DWARF)
- CHINA HOLLY (DWARF)

TYPE "C" (FLOWERING) TREES (8" - 10" High)

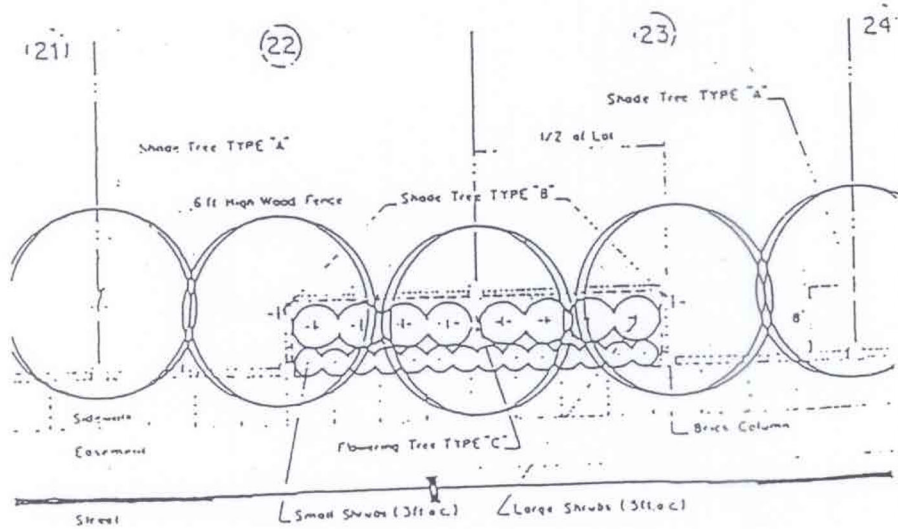
- CRAPMYRTLE
- WASHINGTON HAWTHORNE
- COLOCASIA TREE
- RED BUD
- JAPANESE CHERRY
- CRABAPPLE



PLANTING SCREEN C - FOR DOUBLE FRONTAGE LOTS

SHEET 1 OF 2

PLATE 4 B



NOTE: Shade Trees shall be planted 50' oc - Shade Trees may be Deleted where Existing Trees have been Saved

PLANTING SCREEN C - FOR DOUBLE FRONTAGE LOTS

SHEET 2 OF 2

PLATE 4 B

CODE

TYPE "A"
SHADE TREE (2"-2 1/2" cal)

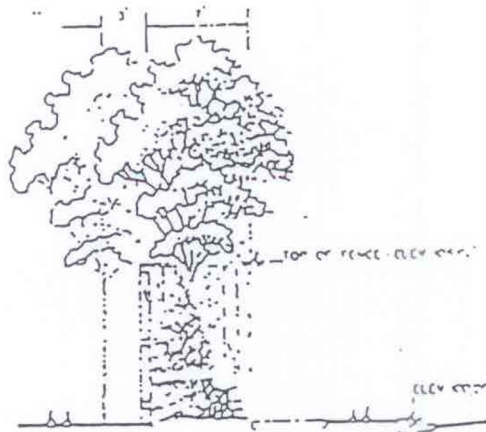
- YELLOW OAK
- PIN OAK
- SCARLET OAK
- TEMPLE OAK
- BALTIMORE
- MAGNOLIA

TYPE "A" SHRUBS (Minimum 36" High)

- GOLDEN YEW
- COX'S BUSH
- ELAEAGNUS
- BURNING BUSH
- PTERIS

TYPE "B" SHRUBS (2' High)

- VARIETAL PRIVET
- HAMMILL'S YEW
- FLORIDA JASMINE
- PFITZER JUNIPER



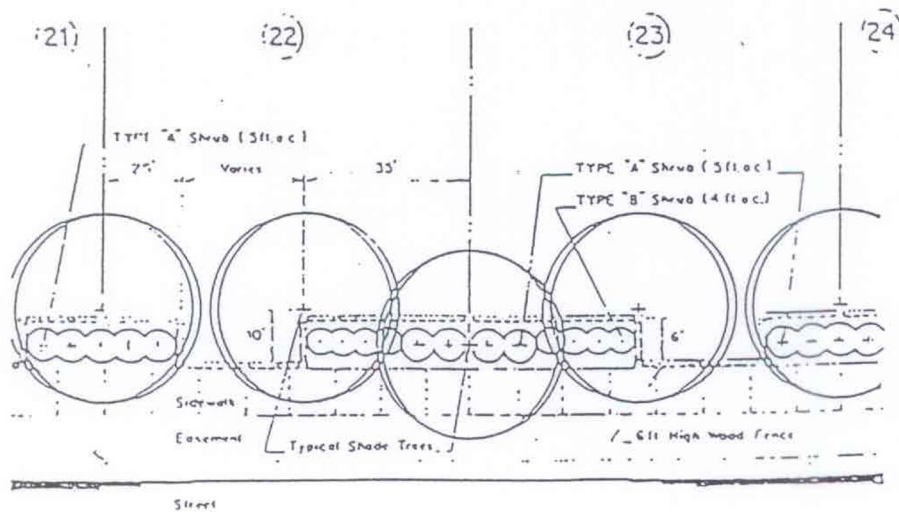
SECTION

PLANTING SCREEN D - FOR DOUBLE FRONTAGE LOTS

CITY OF

SHEET 1 OF 2

PLATE 4C



NOTE: Shade Trees may be Deleted where Existing Trees have been Saved

PLANTING SCREEN D - FOR DOUBLE FRONTAGE LOTS

CITY OF

SHEET 2 OF 2

PLATE 4C

TYPE "A" SHADE TREE (2' x 2' col.)

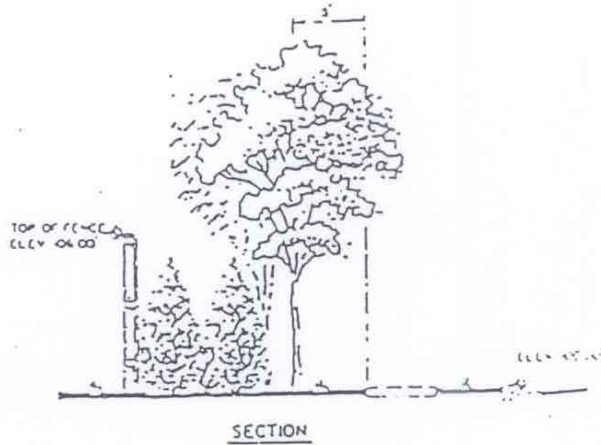
- WILLOW OAK
- PIN OAK
- SCARLET OAK
- TULIP TREE
- BALM SPRUCE
- MAGNOLIA

TYPE "C" TREE (8'-10' High)

- CRAPPE WHITE
- WASHINGTON HAWTHORNE
- GOLDENRAIN TREE
- RED BIRD
- JAPANESE CHERRY
- CRANAPPLE

SHRUBS (3' High Maximum)

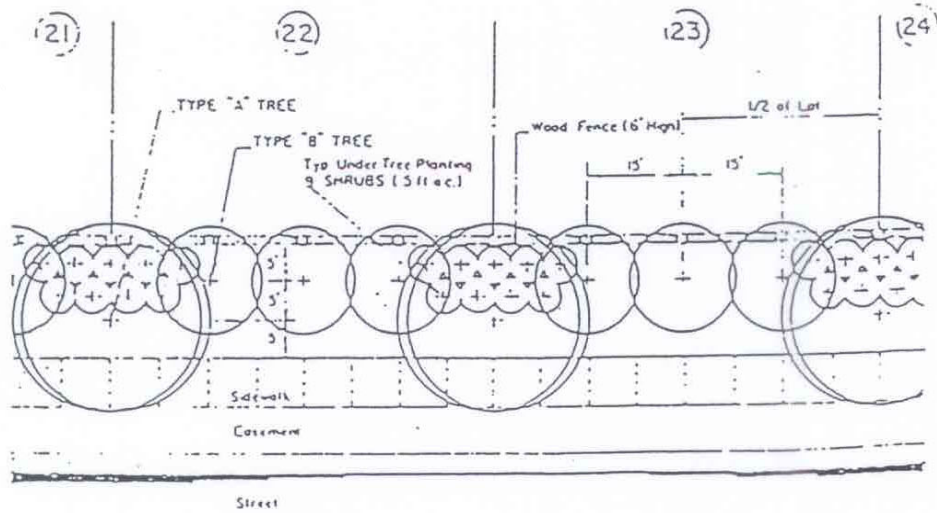
- WAX LEAF LIGUSTRUM
- ELDERBERRY
- ELACANHIS
- RED LEAF POTHOS



PLANTING SCREEN E - FOR DOUBLE FRONTAGE LOTS
CITY OF

SHEET 1 OF 2

PLATE 4D



PLANTING SCREEN E - FOR DOUBLE FRONTAGE LOTS
CITY OF

SHEET 2 OF 2

PLATE 4D

CODE

TYPE "A" SHADE TREE (2'-2 1/2" cal.)

- WILLOW OAK
- PIN OAK
- SCARLET HAWK
- TULIP TREE
- BALD CYPRESS
- MAGNOLIA

TYPE "B" TREE (8'-10' High)

- CREPE MYRTLE
- WASHINGTON HAWTHORNE
- GOLDCORAL TREE
- REDBUD
- JAPANESE CHERRY
- CRABAPPLE

SHRUBS (Minimum 36" High)

- NYRACAZITIA
- ELAEGNUS



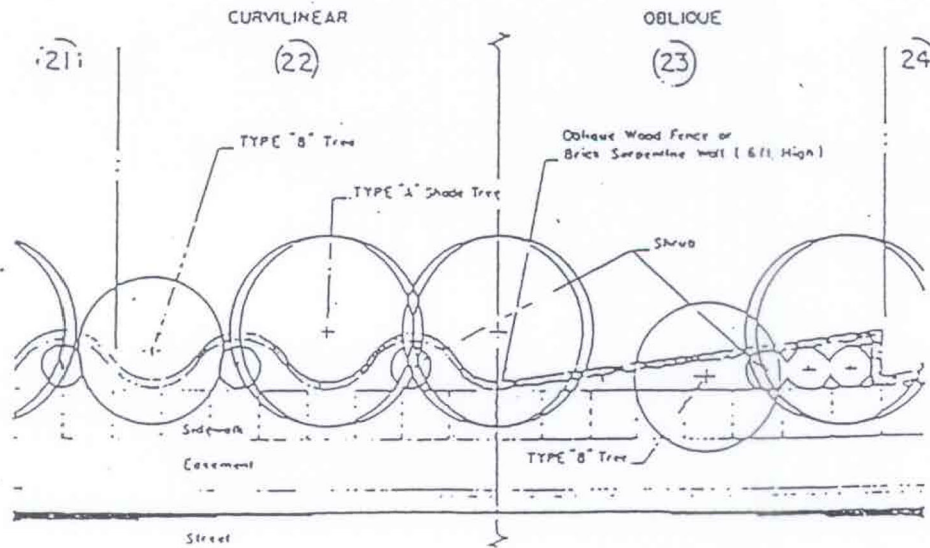
SECTION

PLANTING SCREEN F - FOR DOUBLE FRONTAGE LOTS

CITY OF

SHEET 1 OF 2

PLATE 4E



PLANTING SCREEN F - FOR DOUBLE FRONTAGE LOTS

CITY OF

SHEET 2 OF 2

PLATE 4E

FENCES

14-87

TYPE "A"
SHADE TREE (2'-2 1/2" cd.)

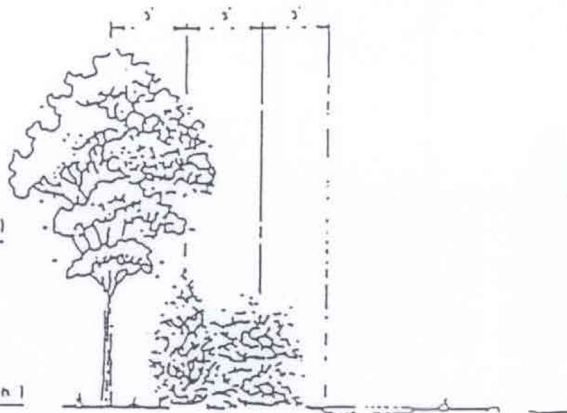
- WAX LEAF OAK
- PIN OAK
- SCARLET OAK
- MAGNOLIA
- HONEYLOCUST
- TULIP TREE
- RED MAPLE

TYPE "A" SHRUB (Minimum 36" High)

- PYRACANTHA
- BURFORD HOLLY
- GOLDEN EUONYMUS
- GOLD SPOT EUONYMUS
- ELAEGNUS

TYPE "B" SHRUB (Minimum 36" High)

- RED LEAF PHOTOINIA
- MAXIMILIAN EUONYMUS
- WAX LEAF LIGUSTRUM



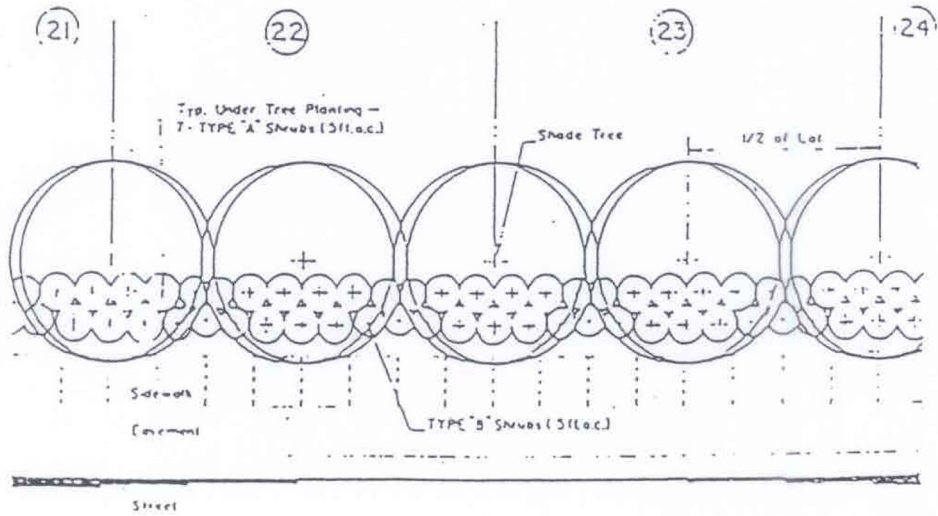
SECTION

PLANTING SCREEN G - FOR DOUBLE FRONTAGE LOTS

CITY OF

SHEET 1 OF 2

PLATE 4F



NOTE: Shade Trees may be Deleted where Existing Trees have been Saved

PLANTING SCREEN G - FOR DOUBLE FRONTAGE LOTS

CITY OF

SHEET 2 OF 2

PLATE 4F

CHAPTER 8

EROSION AND SEDIMENT CONTROL

SECTION

- 14-801. Erosion and sediment control,
- 14-802. Document to provide guidance.
- 14-803. Approval required.

14-801. Erosion and sediment control. To regulate erosion and sediment control on land disturbance or construction sites and to promote clean water in all waters including waters of the state, storm sewers and drainage structures hereby adopts the following: Tennessee Erosion and Sediment Control Handbook, A Guide for Protection of State Waters through the use of Best Management Practices during Land Disturbing Activities, distributed by Tennessee Department of Environment and Conservation, Second Edition March 2002 and any future amendments to same. (as added by Ord. #02-20, Dec. 2002)

14-802. Document to provide guidance. This document shall be used by the engineer to develop an erosion control plan for any land disturbance and/or construction activity. Furthermore, the contractor shall use this document as guidance in methods and materials in the installation and construction of erosion control measures as shown on the approved plan set for land disturbance and/or construction activity. (as added by Ord. #02-20, Dec. 2002)

14-803. Approval required. Any land disturbance activity, except as exempted by subdivision or zoning regulations, must be approved by the municipal planning commission through submittal of an application. Plans that detail the activity and erosion control measures must be stamped and sealed by a professional engineer. Approval of the plan must also be obtained by signature of the city engineer on the plan and appropriate city official on the land disturbance permit. All other required permits must be obtained from other federal, state and local governments. Copies of approvals from other agencies shall be provided to the City of Lakeland to assure compliance. (as added by Ord. #02-20, Dec. 2002)

CHAPTER 9

LANDSCAPING AND SCREENING REQUIREMENTS

SECTION

- 14-901. Intent.
- 14-902. Applicability.
- 14-903. General design parameter.
- 14-904. Tree preservation and protection requirements.
- 14-905. Landscape islands for existing trees.
- 14-906. Landscape restrictions - sight triangle standards.
- 14-907. Parking lot landscaping requirements.
- 14-908. Building facade and foundation landscaping requirements.
- 14-909. Slope plantings.
- 14-910. Removal of debris.
- 14-911. Plant materials.
- 14-912. Plant size requirements.
- 14-913. Installation.
- 14-914. Time landscaping required.
- 14-915. Landscape and irrigation plan requirements.
- 14-916. Maintenance requirements for landscaping and irrigation.
- 14-917. Buffering requirements.
- 14-918. Berms.
- 14-919. Median landscaping.
- 14-920. Common open spaces - planned developments.
- 14-921. Irrigation system requirements.
- 14-922. Mixed use developments.

14-901. Intent. The intent of this chapter is to foster aesthetically pleasing developments which will protect and preserve the appearance, character, health, safety and welfare of the community. Specifically, these regulations are intended to increase the compatibility of adjacent uses requiring a buffer or screen between uses, to minimize the harmful impact of noise, dust, debris, motor vehicle headlight glare, or other artificial light intrusions, and other objectionable activities or impacts conducted or created by an adjoining or nearby land use. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-902. Applicability. (1) All new development, excluding agricultural use and the individual development of single-family or two-family detached dwelling units, shall comply with the landscape and screening requirements. All development located within office, commercial and industrial zoning classifications as well as non-residential uses in residential districts shall be subject to the landscape and screening requirements.

(2) Any parking lot constructed as a result of the expansion of an existing development shall comply with the landscape and screening requirements.

(3) Expansion of all existing development which, after the passage of the ordinance comprising this chapter, exceeds twenty-five percent (25%) of the existing gross square footage or any change in use which results in the property becoming a higher impact use as indicated by an increase in average daily trip generation (ADTs) per day, shall comply with the following:

(a) The site shall be modified to provide at least fifty percent (50%) of the amount of landscaping which would be required for a comparable new development; provided, however, that in the case of an existing site that already has landscaping in excess of the fifty percent (50%) required for a new development no additional landscaping may be required by the design review commission. If it is not feasible to meet the quantity or placement requirements, the required landscaping may be modified with the approval of the design review commission including the introduction of larger plant specimens as a means of compensating for the lack of required landscaping.

(b) Any change in use which results in a higher impact shall require buffers and screening measures as set forth in the landscape and screening requirements. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-903. General design parameters. (1) The following general design parameters shall be considered in designing landscaping areas:

(a) Landscape design and species shall be used to create visual continuity throughout the development. Landscape coordination shall occur among all phases of the development.

(b) Landscape areas should be combined to form large clusters at highly visible locations such as landscape courts, plazas or common areas.

(c) Landscape design should create variety, interest and view corridors for visibility.

(d) A variety of different species (including both deciduous and evergreen species) shall be incorporated into the site design to provide visual interest, as well as disease and pest resistance. A minimum of twenty percent (20%) of the plantings shall be evergreen/coniferous species.

(e) Required landscape plantings shall be coordinated with the location of utilities, driveways, and traffic clearance zones. Landscape plantings shall be located an adequate distance away from utility lines and easements to avoid damage when such lines are repaired or replaced.

(2) All landscape areas shall be irrigated. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-904. Tree preservation and protection requirements. (1) Tree preservation. Site plans and plats shall be designed to preserve existing trees and vegetation to the greatest extent possible and shall seek to incorporate existing stands of trees as well as individual trees. Sensitivity to the site grading, storm drainage, building location, public/private utility layouts and easements, and parking lot configurations shall be demonstrated by the developer to ensure tree and vegetation preservation. Particular attention shall be paid to the preservation of trees and their natural understory vegetation on steep or erodible slopes, riparian areas, wetlands, or other environmentally sensitive areas. The intent of these regulations is to recognize the need to alter the landscape during site development activities, while setting out standards necessary to ensure tree preservation and protection of environmentally sensitive areas to the greatest extent possible.

(2) Tree survey. The applicant shall submit a tree survey indicating the species, size, and location of trees within the subject site. Unless otherwise specified, the survey shall identify by common and scientific name and indicate by diameter in inches each tree twenty-four inches (24") or greater (or specimen tree), as measured at four and one-half feet (4.5') above the mean ground level, as well as other trees proposed for retention. The tree survey shall be prepared on a topographic survey of the site to establish the tree elevation at the trunk and shall clearly indicate the drip line of all specimen trees as well as all other trees to be retained on site and at the edge of the drip line for wooded areas. In accordance with the Lakeland Tree Management Ordinance, all other trees not proposed for retention shall be delineated on the survey as a stand and accompanied by a summary table describing species and size distributions. The city manager or their designee may grant an exception for trees or wooded areas that will not be removed or impacted by site development operations.

(3) Trees preserved - plan review determination. The applicant shall prepare and present a tree management plan and statement of intent at time the site plan application is submitted for consideration by the planning commission. The plan shall indicate the location and massing of wooded areas, areas with dense shrubbery, and isolated individual mature hardwood trees and designate which areas or trees are to be preserved and which are to be removed. The plan shall also identify the location of all site improvements, buildings, general utility locations including easements, and preliminary site grading. The tree preservation statement shall indicate which trees and wooded areas are to be protected and the measures proposed to protect them during the construction process. The planning commission shall have the authority to review and evaluate the information contained in the management plan and to require additional protection measures where deemed appropriate to improve preservation of existing tree cover.

(4) Protection of existing trees. (a) Existing trees and their root protection zones that are to be saved shall be protected from all construction activities, including earthwork operations, movement and

storage of equipment and vehicles and placement of construction materials and debris. Erosion protection measures may be required to prevent siltation of the tree preservation areas during construction. Protection zones shall be established by the city manager or his/her designee to ensure trees and their root zones are adequately protected and are not damaged during site development operations.

(b) Every effort shall be made to locate utility easements away from tree preservation areas. However, utility easements may be located adjacent to tree preservation areas as long as adequate clearance and protection is provided for the tree preservation easement. When infrastructure systems must cross tree preservation areas, every effort including consideration of the use of directional boring rather than trenching shall be made to minimize tree removal in such areas. If the removal of trees within these areas is determined to be excessive, the city manager or his/her designee may require the developer to replace such trees or pay into a tree preservation fund.

(c) To ensure protection of tree preservation areas, protection zones shall be delineated on the site development plans. During construction, such protection zones shall be delineated on the property using standard orange barricade fencing or comparable fencing material approved by the city forester. Such fencing shall be four feet (4') in height and supported by metal channel posts spaced at a maximum of ten feet (10') on center. Such fencing shall be placed around all trees or wooded areas to be protected and shall remain erected and secure throughout all construction phases. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-905. Landscape islands for existing trees. (1) The planning commission and design review commission may approve variations to the landscape island requirements to preserve existing trees in interior parking areas. For existing trees, the minimum width of a landscape planter island shall be as follows:

6-inch caliper or less	9-foot minimum width
6-inch to 12-inch caliper	15-foot minimum width
More than 12-inch caliper	20-foot minimum width

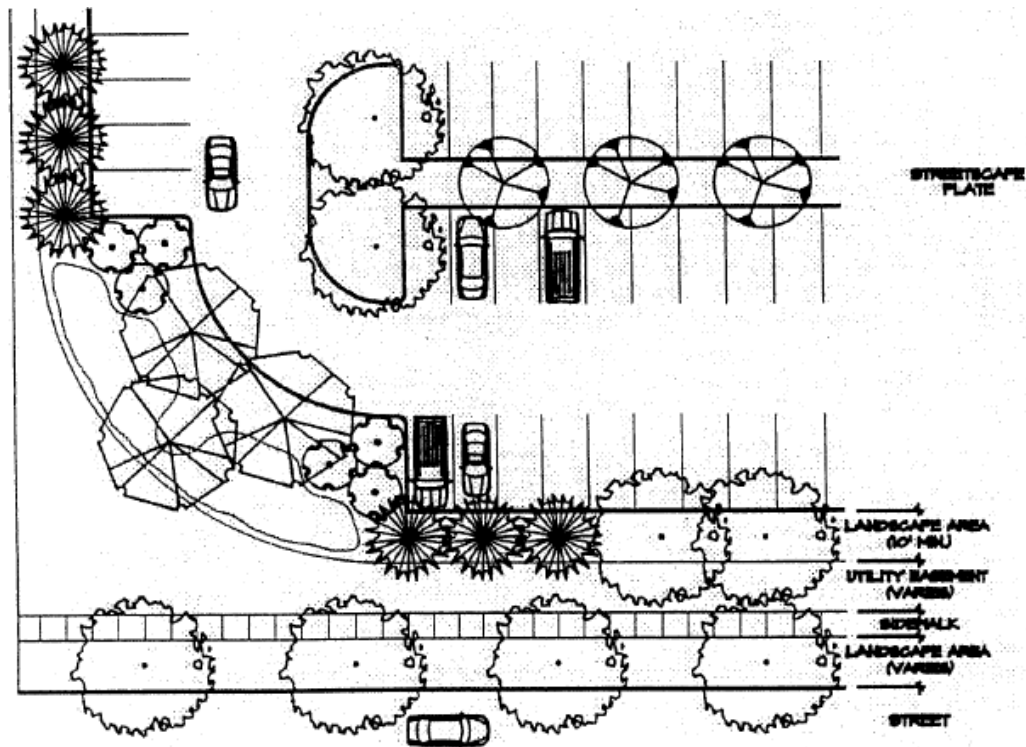


Figure 9-1. Streetscape Landscaping Plate

(as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-906. Landscape restrictions - sight triangle standards. (1) A sight triangle is that area located at the intersection of two (2) public streets or a public street and private driveway through which an unobstructed view of approaching traffic is necessary for motorists and pedestrians. Except as permitted in this section, no landscaping or vegetation, or fence, structure, or object shall be included in a sight triangle in a landscape plan, nor shall any such landscaping or object be planted, erected or maintained within a sight triangle. A sight triangle shall be as defined in Table 9-1 and Figure 9-2 below.

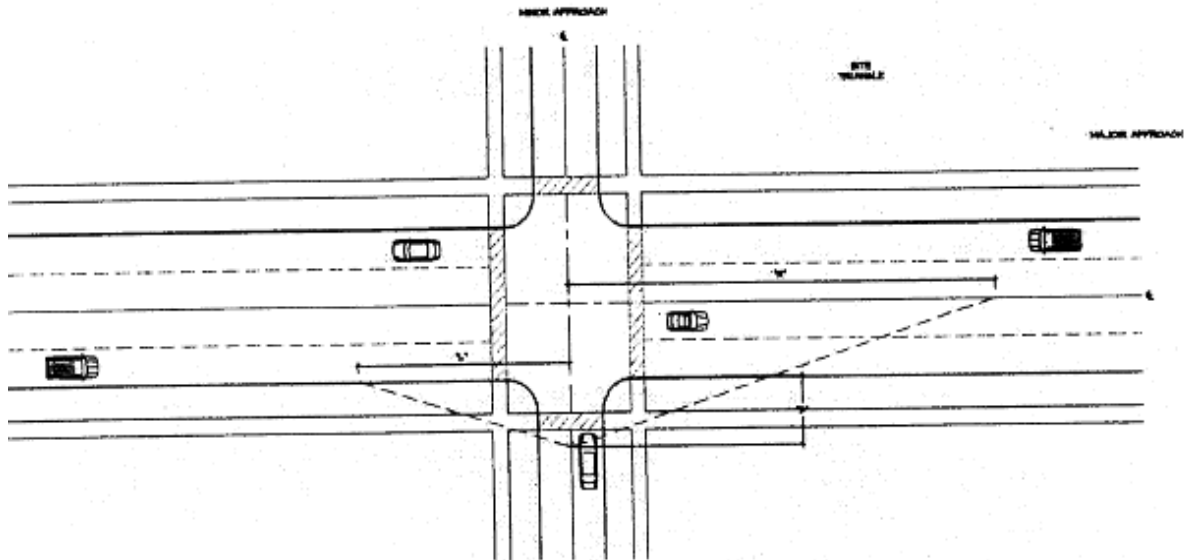


Figure 9-2. Minimum Required Site Triangle

The distance "D" shall measure twenty feet (20') and fifteen feet (15') from the edge of the nearest travel lane for a public street and private driveway, respectively. The distance "L" shall be measured from the centerline of the minor approach to a point at the edge of the nearest travel lane. The distance "R" shall be measured from the centerline of the minor street to a point on the centerline of the major street approach.

**Table 9-1.
Minimum Required Sight Distance for
Different Posted Speed Limits**

<u>Posted Speed Limit ⁽¹⁾</u>	<u>Minimum Sight Distance (Left and Right)</u>
25 mph	200 feet
30 mph	250 feet
35 mph	325 feet
40 mph	400 feet
45 mph	475 feet
50 mph	550 feet
55 mph	650 feet

(1) Posted speed limit on the major approach. Except at a signalized intersection, the speed limit of the approach from which the sight distance is being measured is ignored.

(2) Sight triangles shall be measured from the minor leg of the intersection of two (2) public streets where the minor approach shall be defined as that approach whose right-of-way is controlled by a stop sign and whose major approach is uncontrolled. At a signalized intersection of two (2) public streets, sight triangles shall be measured for all approaches. For an intersection of a public street and private driveway, the sight distance is only measured from the private driveway. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-907. Parking lot landscaping requirements. To reduce the visual impact of parking lots, landscaping areas and/or architectural features that complement the overall design and character of the development will be integrated into the development.

(1) The number of trees required in the internal planting areas in parking lots shall be dependent upon the location of the parking lot in relation to the building, public right-of-way and adjoining land uses. The following minimum tree planting requirements shall apply to parking lots:

(a) Where the parking lot is located between the building and the public right-of-way, one (1) shade tree for every five (5) parking spaces shall be provided (1:5).

(b) Where the parking lot is located to the side of the building and partially abuts the public right-of-way, one (1) shade tree for every seven (7) parking spaces shall be provided (1:7).

(c) Where the parking lot is located behind the building and is not visible from the public right-of-way, one (1) shade tree for every ten (10) parking spaces shall be provided (1:10).

(d) Each shade tree planted shall be a minimum of three inch (3") caliper at time of planting.

(2) Parking lots that abut the public right-of-way shall be screened with one or a combination of the following treatments:

(a) Low walls made of masonry, stone, or other similar material and not exceeding a maximum height of three feet (3').

(b) Raised planter walls planted with a minimum of eighty percent (80%) evergreen shrubs planted in an intertwined planting pattern using plant materials that are a minimum of twenty-four inches (24") in height and spread at time of planting for a minimum overall height including planter of thirty inches (30") at time of planting.

(c) Landscape plantings consisting of eighty percent (80%) evergreen shrubs planted in an intertwined planting pattern using plant materials that are a minimum of thirty inches (30") in height and spread at the time of planting and interspersed with deciduous and coniferous trees and groundcovers.

(3) One (1) deciduous shade tree or two (2) ornamental trees along with a minimum of eight (8) durable evergreen and deciduous shrubs,

groundcover, mulch and irrigation shall be provided for every parking landscape island.

(4) Landscape aisles and strips shall include medium to large deciduous trees a minimum of one (1) tree every thirty (30) linear feet, in addition to other parking lot landscaping requirements. All landscape aisles and strips shall be irrigated.

(5) Primary landscape materials shall be trees which provide shade or are capable of providing shade at maturity. Ornamental trees, evergreen trees, shrubbery, hedges and other planting materials may be used to compliment the landscaping, but shall not be the sole means of landscaping. Effective use of earth berms and existing topography is also encouraged as a component of the landscape plan.

(6) The perimeter of parking areas along side and rear property lines not abutting a public right-of-way shall be landscaped using a combination of evergreen and deciduous plant materials. All perimeter landscape areas shall be irrigated.

(7) Groundcover plants shall be planted in a number as appropriate by species to provide fifty percent (50%) surface coverage.

(8) Seeding and sodding shall be provided for total coverage within the first growing season. Sod shall be used where necessary to provide coverage and soil stabilization.

(9) Stormwater detention and retention basins and ponds shall be landscaped. Landscaping materials shall include a combination of deciduous shade and ornamental trees, coniferous trees, and evergreen and deciduous shrubbery, hedges and groundcovers. Any areas not covered with tree or shrubbery materials shall be seeded and/or sodded to minimize sedimentation within the detention and retention basins and ponds. Depending upon design, stormwater detention and retention basin landscape may require irrigation.

(10) Walls and raised planters shall not exceed a maximum height of three feet (3'), unless all of the following are provided:

(a) Screen treatment does not create a traffic or safety hazard or obstruct visibility.

(b) Portion of treatment that is above three feet (3') in height is a minimum of seventy-five percent (75%) transparent (i.e., wrought iron fencing, trellis).

(c) Portion of wall/landscape treatment that is above three feet (3') in height provides added visual interest, detail, and character suitable to the character of the development.

(d) The raised planter shall be irrigated.

(11) Where walls are provided, landscape planting areas shall be a minimum of five feet (5') in width and shall be located adjacent to the public right-of-way.

(12) Chain link fencing shall not be permitted to be used to screen or enclose parking along a public right-of-way. In addition, the use of razor ribbon or barbed wire shall be prohibited.

(13) Landscape islands shall be protected by curbs a minimum of six inches (6") in height. All parking lot islands shall be excavated completely of all building and paving materials to a minimum depth of twenty-four inches (24") and backfilled with a medium textured planting mix prior to landscape materials being planted.

(14) Trees shall be required throughout the life of the development. If any trees within a parking lot or periphery die, become diseased, or are removed for any reason, they shall be replaced at the expense of the owner. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-908. Building facade and foundation landscaping requirements. (1) Non-residential developments shall include the following building facade and foundation landscaping standards, unless deviations from these standards are otherwise approved by the design review commission as part of the landscape plan approval process:

(a) Landscaping and planting areas shall be placed to provide a buffer between the parking lot or drives and building walls or pedestrian circulation. Landscape areas may be placed adjacent to the building wall or adjacent to the curb to coordinate with building overhangs and canopies, if applicable. A variety of shrubs, ornamental trees and/or shade trees are encouraged. Any trees used should accommodate pedestrian circulation.

(b) Along any building facade or foundation that fronts upon a public right-of-way or a parking lot provided for the building, landscape areas shall be provided equivalent to a minimum of fifty percent (50%) of each building facade or foundation. The landscape area may be a continuous area or comprised of several areas. Building facades along service areas are excluded but, shall be screened according to applicable screening requirements of such areas.

(c) Each landscape area shall be planted with shrubbery a minimum of thirty (30") inches in height at time of planting that is of a species capable of reaching thirty-six (36") inches in height above the adjacent parking area or drive, covering a minimum of seventy-five percent (75%) of the length of the landscape area. A mixture of evergreen and deciduous shrubs shall be used to maintain seasonal interest. Ornamental trees (where appropriate), or shade trees should be included in the landscape design to further buffer the building facade from the drives and parking lot areas. In areas where pedestrian circulation is anticipated, trees with a branching habit conducive to walking under shall be used. For example, pin oaks are not acceptable in these areas due to their descending branch habit. Consideration should also be given to

the presence of thorns, fruit, or other features that will affect pedestrian circulation. Appropriate plant species should be installed so that mature tree limbs can be maintained at a minimum eight foot (8') clearance from ground level and so that shrubs do not exceed thirty-six inches (36") in height for areas where it is important to maintain visibility for security and safety purposes.

(d) Planting areas shall have a minimum width of either six feet (6') or the equivalent of twenty percent (20%) of the building facade height as measured from finished grade to the top of the wall or parapet, whichever is greater.

(e) Building facade and foundation areas shall be irrigated. Bubbler or drip irrigation systems are encouraged in order to reduce water consumption and overspray onto pedestrian circulation areas.

(f) Landscape areas shall generally not be placed beneath overhangs and canopies. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-909. Slope plantings. Landscaping of all cuts and fills and/or terraces shall be sufficient to prevent erosion, and all roadway slopes steeper than one foot (1') vertically to three feet (3') horizontally shall be planted with groundcover appropriate for the purposes and soil conditions, water availability and surrounding environment. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-910. Removal of debris. (1) All stumps and other tree parts, litter, brush, weeds, excess or scrap building materials or other debris shall be completely removed from the site prior to issuance of a certificate of completion by the city.

(2) No tree stumps, or portions of tree trunks or limbs shall be buried anywhere in the development.

(3) All dead and dying trees, standing or fallen, shall be completely removed from the site upon notification by the city. If trees or limbs are reduced to chips, they may be used as mulch in landscape areas, subject to approval by the city. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-911. Plant materials. (1) Quality standard. All plant material shall be of No. 1 grade, free from plant disease, of typical growth for the species, have a healthy, normal root system, rounded branch pattern, and shall be installed in conformance to the code of standards set forth in the most recent edition of The American Standard for Nursery Stock (ANSI Z60.1), as published by the American Association of Nurserymen.

(2) There shall be a minimum of one (1) shade tree for every three (3) understory trees planted. There shall be no more than forty percent (40%) from

one (1) genus unless otherwise approved by the city manager or his/her designee.

(3) **Recommended plants.** A list of recommended plants within each plant material type is included in Table 9-2. The applicant may propose plants other than those listed if the plant is appropriate for the intended use or the applicant maintains a plant care program sufficient to properly care for the proposed plant material. Plant materials shall be appropriate for the region and local soil conditions and shall be planted in accordance with good horticultural practice. Plants selected should require only low maintenance and should be temperature and drought tolerant.

**Table 9-2.
Recommended Native and Non-Native Landscape Species**

Native Overstory Trees		Non-native Overstory Trees	
Botanic name	Common name	Botanic name	Common name
<i>Acer rubrum</i>	Red maple	<i>Acer platanoides</i>	Norway maple; (locally appropriate cultivars)
<i>Acer saccharum</i>	Sugar maple	<i>Aesculus x carnea</i>	Red horsechestnut
<i>Betula nigra</i>	River birch	<i>Cedrus atlantica</i> 'Glauca'	Atlantic cedar (Blue atlas)
<i>Carya spp.</i>	Mockernut, Bitternut, Pignut, Shagbark hickory	<i>Cedrus deodara</i>	Deodar cedar
<i>Carya illinoensis</i>	Pecan	<i>Cercidiphyllum japonicum</i>	Katsuratree
<i>Diospyros virginiana</i>	Common persimmon	<i>Corylus spp.</i>	Filbert

<i>Fagus grandifolia</i>	American beech	<i>Cryptomeria japonica</i>	Japanese-Cedar
<i>Fraxinus americana</i>	White ash	<i>Ginkgo biloba</i>	Ginkgo (male only)
<i>Fraxinus pennsylvanica</i>	Green ash	<i>Metasequoia glyptostroboides</i>	Dawn redwood
<i>Gymnocladus dioica</i>	Kentucky coffeetree	<i>Pinus nigra</i>	Austrian pine
<i>Ilex Americana</i>	American holly	<i>Pinus sylvestris</i>	Scots pine
<i>Juniperus virginiana</i>	Eastern redcedar	<i>Platanus x acerifolia</i>	London planetree 'bloodgood'
<i>Liquidambar styraciflua</i>	Sweetgum	<i>Pseudolarix x kaempferi</i>	Golden larch?
<i>Liriodendron tulipifera</i>	Yellow-poplar	<i>Quercus acutissima</i>	Sawtooth oak
<i>Magnolia acuminata</i>	Cucumbertree	<i>Sophora japonica</i>	Japanese pagodatree (single leader)
<i>Magnolia grandiflora</i>	Southern magnolia	<i>Tilia cordata</i>	Littleleaf linden
<i>Magnolia virginiana</i>	Sweetbay magnolia	<i>Tilia tomentosa</i>	Silver linden
<i>Nyssa sylvatica</i>	Blackgum	<i>Ulmus parvifolia</i>	Chinese elm
<i>Pinus echinata</i>	Shortleaf pine	<i>Zelkova serrata</i>	Japanese zelkova
<i>Pinus taeda</i>	Loblolly pine		
<i>Platanus occidentalis</i>	Sycamore		
<i>Prunus serotina</i>	Black cherry		
<i>Quercus spp.</i> locally appropriate species	Oak – white, scarlet, southern red, shingle, overcup, swamp chestnut, chinkapin, water, nuttall, willow, northern red, shumard, post, and black oak.		
<i>Sassafras albidum</i>	Sassafras		
<i>Taxodium distichum</i>	Baldcypress		
<i>Thuja occidentalis</i>	Arborvitae/Northern white-cedar		
<i>Tilia Americana</i>	Basswood		
<i>Tsuga canadensis</i>	Eastern hemlock		
<i>Ulmus hybrids</i>	hybrid Elm		

Native Understory Trees	
Botanic name	Common name
<i>Aesculus pavia</i>	Red Buckeye
<i>Amelanchier spp.</i>	Serviceberry (appropriate species/ cultivars)
<i>Asimina triloba</i>	Pawpaw
<i>Bumelia lanuginosa</i>	Chittamwood
<i>Carpinus caroliniana</i>	American hornbeam
<i>Cercis canadensis</i>	Eastern redbud
<i>Chionanthus virginicus</i>	Fringetree
<i>Cladrastis lutea</i>	Yellowwood
<i>Cornus florida</i>	Flowering dogwood
<i>Cotinus obovatus</i>	American smoketree
<i>Crataegus spp.</i>	Hawthorn species (locally appropriate)

Non-native Understory Trees	
Botanic name	Common name
<i>Acer buergerianum</i>	Trident maple
<i>Acer ginnala</i>	Amur maple (appropriate cultivars)
<i>Acer griseum</i>	Paperbark maple
<i>Acer palmatum</i>	Japanese maple
<i>Castanea mollissima</i>	Chinese chestnut
<i>Chionanthus retusus</i>	Chinese fringetree
<i>Cornus kousa</i>	Chinese dogwood
<i>Cotinus coggygria</i>	Smoketree
<i>Hammamelis mollis</i>	Chinese with-hazel
<i>Ilex x 'Nellie R. Stevens'</i>	'Nellie R. Stevens' Holly
<i>Kolreuteria paniculata</i>	Goldenraintree

<i>Halesia Carolina</i>	Carolina silverbell
<i>Hammamelis virginiana</i>	Witch-hazel
<i>Ilex x attenuata 'Fosteri'</i>	Foster's Holly
<i>Ilex x attenuata 'Savannah'</i>	Savannah Holly
<i>Ilex decidua</i>	Possumhaw
<i>Magnolia x soulangiana</i>	Saucer magnolia
<i>Malus spp.</i>	Crabapple (locally appropriate cultivars)
<i>Ostrya virginiana</i>	American hophornbeam
<i>Oxydendrum arboretum</i>	Sourwood
<i>Prunus americana</i>	American plum
<i>Rhamnus caroliniana</i>	Carolina buckthorn
<i>Rhus glabra</i>	Smooth sumac
<i>Rhus typhina</i>	Staghorn sumac
<i>Styrax obassia</i>	Fragrant snowbell
<i>Viburnum rufidulum</i>	Rusty blackhaw

<i>Lagerstroemia indica</i>	Crape-Myrtle (locally appropriate hybrids and cultivars)
<i>Magnolia stellata</i>	Star magnolia
<i>Pistacia chinensis</i>	Chinese pistache
<i>Prunus spp.</i>	Cherry (Asian species; locally appropriate)
<i>Rhus chinensis</i>	Chinese sumac
<i>Styrax japonicus</i>	Japanese snowbell
<i>Viburnum spp.</i>	Asian viburnum (locally appropriate species)

(4) All plants shall equal or exceed the following measurements when planted. Plants larger than specified may be used, but use of such plants shall not decrease the size requirements of other proposed plants. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-912. Plant size requirements. (1) Canopy and understory trees with single trunks shall be measured by caliper size one foot (1') above the ground line. Multi-trunk trees shall be measured by the number of trunks and caliper size one foot (1') above the ground line.

(2) An immediate landscape impact is desired within all landscape areas associated with residential, office, commercial and industrial developments including planned developments. To facilitate this, the following minimum plant size at the time of planting shall be required. Larger sizes are encouraged.

<u>Plant Material Type</u>	<u>Minimum Size</u>
Deciduous Shade Tree	
Single Stem/Trunk	3.0-inch caliper
Multi-trunk	10-feet
Evergreen Tree	8-feet
Understory Tree	8-feet
Ornamental Tree	1.5 to 2.0-inch caliper
Ornamental Tree (multi-trunk)	3 or more trunks (1-inch each)
Shrubbery	
Deciduous	30-inches (5 gallon min.)
Evergreen	30-inches (5 gallon min.)
Groundcover	6-inches

(as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-913. Installation. (1) All landscaping materials shall be installed in accordance with requirements set forth in the most recent edition of The American Standard for Nursery Stock (ANSI Z60.1), as published by the American Association of Nurserymen.

(2) Any landscape material that fails to meet the minimum requirements or standards of this ordinance at the time of installation shall be removed and replaced with acceptable materials.

(3) Plant materials shall be placed intermittently against long expanses of building walls, fences, and other barriers to create a softening effect.

(4) Ground cover plants shall be planted in a number as appropriate by species to provide fifty percent (50%) surface coverage.

(5) Landscaping materials shall not obstruct the operation and maintenance of utilities. Landscaping or plant material may not interfere with the function, safety, and access to any public easement or right-of-way, or the flow of stormwater runoff.

(6) No large deciduous or evergreen trees shall be planted within five feet (5') on either side of a water, sewer or drainage line. Trees planted underneath overhead power lines shall be a species that does not, in this region, achieve a mature height that would reach or interfere with such lines, or as recommended by MLGW. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-914. Time landscaping required. (1) All required landscaping materials shall be in place prior to the time of issuance of the certificate of completion by the City of Lakeland.

(2) In periods of adverse weather conditions, a temporary certificate of completion may be issued, subject to the posting of a cash escrow or irrevocable letter of credit in an amount equal to one and one-half (1 1/2) times the estimated cost of the landscaping, with said estimated cost to be certified by a licensed landscaping contractor.

(3) The cash escrow or irrevocable letter of credit may be forfeited in the landscaping is not completed in accordance with approved landscape plans within six (6) months after the issuance of the temporary certificate of completion.

(4) Forfeiture of any cash escrow or irrevocable letter of credit shall not relieve the owner of the responsibility to complete the required landscaping. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-915. Landscape and irrigation plan requirements.

(1) Qualification to prepare plans. Landscape plans submitted for consideration by the planning commission or design review commission shall be prepared by a registered landscape architect. Irrigation plans should be prepared by a licensed contractor or registered landscape architect.

(2) Landscape plan requirements. The following items shall be provided on the required landscape plan:

- (a) Sheet size twenty-four inches by thirty-six inches (24"x36").
- (b) Scale of one inch equals twenty feet (1"=20'), or as approved based on size of project.
- (c) North arrow, graphic and written scale.
- (d) Appropriate title.
- (e) Title block, including street address, legal description and date of preparation.
- (f) Name and address of owner.
- (g) Name, address and telephone number of person preparing plan.
- (h) Property line shown with dimensions.
- (i) Existing utilities (water, sewer, stormwater, gas, and electric) and related easements.
- (j) Location, diameter at breast height, and species of all existing trees to be preserved.
- (k) Calculations demonstrating compliance with the minimum density requirements of the Lakeland Tree Management Ordinance, if applicable.
- (l) Location, quantity, size and species of all proposed plant materials.

(m) Maintenance notation indicating maintenance responsibilities upon installation.

(n) Berms and other unique physiographic features.

(o) Visibility triangles for entrances and intersecting streets.

(p) Sealed and dated signature of landscape architect.

(q) Plant list.

(3) Irrigation plan requirements. The following items shall be provided on the required irrigation plan:

(a) Sheet size twenty-four inches by thirty-six inches (24"x36").

(b) Scale of one inch equals twenty feet (1"=20'), or as approved based on size of project.

(c) North arrow, graphic and written scale.

(d) Appropriate title.

(e) Title block, including street address, legal description and date of preparation.

(f) Name and address of owner.

(g) Name, address and telephone number of person preparing plan.

(h) Property line shown with dimensions.

(i) Existing utilities (water, sewer, stormwater, gas, electric) and related easements (all pipes shall be noted by size in inches).

(j) Proposed irrigation system (labeled by size).

(k) All sprinkler heads labeled as to type (key is acceptable).

(l) Backflow prevention device labeled with type and size.

(m) Location of water meter and connection to water service.

(n) Maintenance note indicating maintenance responsibility.

(o) Seal and dated signature of professional preparing plan. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-916. Maintenance requirements for landscaping and irrigation. (1) Maintenance of landscaping. Maintenance includes all reasonable and regular irrigation, weeding, weed control, fertilizing, pruning as well as removal of tree wrap and staking per standard horticultural practices and the city code. Plant materials that show signs of insect infestation, diseases and/or damage shall be appropriately treated. Dead plant material will be replaced according to the approved landscape plan.

(2) Inspection authority. All landscaping and irrigation systems will be subject to periodic inspection by the city's code enforcement officer. Should landscaping not be installed, maintained and replaced as needed to comply with the approved plan, the owner and its agent(s) shall be considered in violation of the terms of the certificate of completion and this ordinance.

(3) The developer and subsequent owner shall be responsible for the perpetual maintenance of all landscaping materials and irrigation systems and

shall keep them in proper, neat and orderly appearance, free from weeds, refuse and debris at all times. This shall include mowing, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping.

(4) Landscaped areas shall be kept free of trash, litter, weeds and other material or plants not a part of the landscaping. All plant materials shall be maintained in a healthy and growing condition as is appropriate for the season of the year. All irrigation heads or lines that are broken and flow water shall be replaced or repaired immediately to prevent the waste of water.

(5) The developer and subsequent owner shall be responsible for maintaining the landscaping on all adjacent rights-of-way as shown on an approved landscape plan or as existing if an approved landscape plan does not exist, unless a maintenance agreement is reached with another entity. The city, at its discretion, may add, remove, replace, or maintain landscaping within the right-of-way per city standards,

(6) The developer may request city maintenance of primary greenways, or the city may approve an alternative maintenance plan. If no agreement is reached, maintenance of primary greenways shall be the responsibility of the developer and subsequent homeowners association. The following standards shall apply:

(a) Installation of all landscaping and improvements in the greenway shall meet or exceed city standards.

(b) The developer will maintain the improvements for at least one (1) year following construction acceptance by the city of such improvements, and thereafter until the city has granted final acceptance for maintenance for those improvements.

(7) Plant replacement. Should a plant or portion of the required landscaping die, the owner shall be responsible for replacing said plantings with a plant or plants that have similar characteristics and form. The developer and/or owner shall be responsible for replacing all plant materials which shows dead branching over seventy-five percent (75%) or more of the normal branching pattern and repair irrigation system for a period of one (1) year from the date of issuance of the certificate of completion by the City of Lakeland. Plant materials which die shall be replaced with plant material of similar variety and similar size. The owner shall make such necessary replacements within thirty (30) days of notification by the city.

(8) Pruning. Topping trees or the severe cutting of limbs to stubs larger than three inches (3") in diameter within the tree crown to such a degree as to remove the normal canopy is not proper maintenance to trees as required by this chapter. This maintenance requirement shall be subject to oversight by the city manager or his/her designee. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-917. Buffering requirements. (1) Function and materials. Buffering shall provide a year round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, mounds, or combinations thereof to achieve the same objectives.

(2) When required. Every development shall provide sufficient buffering when topographical or other barriers do not provide reasonable screening and when the planning commission determines that there is a need:

(a) To shield neighboring properties from any adverse external effects of a development; or

(b) To shield the development from negative impacts of adjacent uses such as streets or railroads. Buffers shall be measured from side and rear property lines, excluding driveways.

(3) Amount of buffering required. The following buffering requirements shall apply:

(a) Where an office zoned development abuts a residential zoning district, a buffer strip twenty-five feet (25') in width shall be required. Where site conditions do not allow a natural buffer of twenty-five feet (25') in width, a solid privacy fence or wall may be substituted along with sufficient berms and evergreen and deciduous plantings, as determined by the planning commission and the design review commission.

(b) Where a neighborhood commercial zoned development abuts a residential zoning district, a buffer strip twenty-five feet (25') in width shall be required. Where site conditions do not allow a natural buffer of twenty-five feet (25') in width, a solid privacy fence or wall may be substituted along with sufficient berms and evergreen and deciduous plantings, as determined by the planning commission and design review commission.

(c) Where a general commercial zoned development abuts a residential zoning district, a buffer strip fifty feet (50') in width shall be required. Where site conditions do not allow a natural buffer of fifty feet (50') in width, a solid privacy fence or wall may be substituted along with sufficient berms and evergreen and deciduous plantings, as determined by the planning commission and design review commission.

(d) Where an Industrial zoned development abuts a residential zoning district, a buffer strip one hundred feet (100') in width shall be required. Where site conditions do not allow a natural buffer of one hundred feet (100') in width, a solid privacy fence or wall may be substituted along with sufficient berms and evergreen and deciduous plantings, as determined by the planning commission and design review commission.

(4) Design. Arrangement of plantings in buffers shall provide maximum protection to adjacent properties and avoid damage to existing plant materials. Possible arrangements include planting in parallel, serpentine, and

broken rows. If planted berms are used, the minimum top width shall be five feet (5') and the maximum side slope shall be 3:1. Examples of buffers are depicted in Figure 9-3 below.

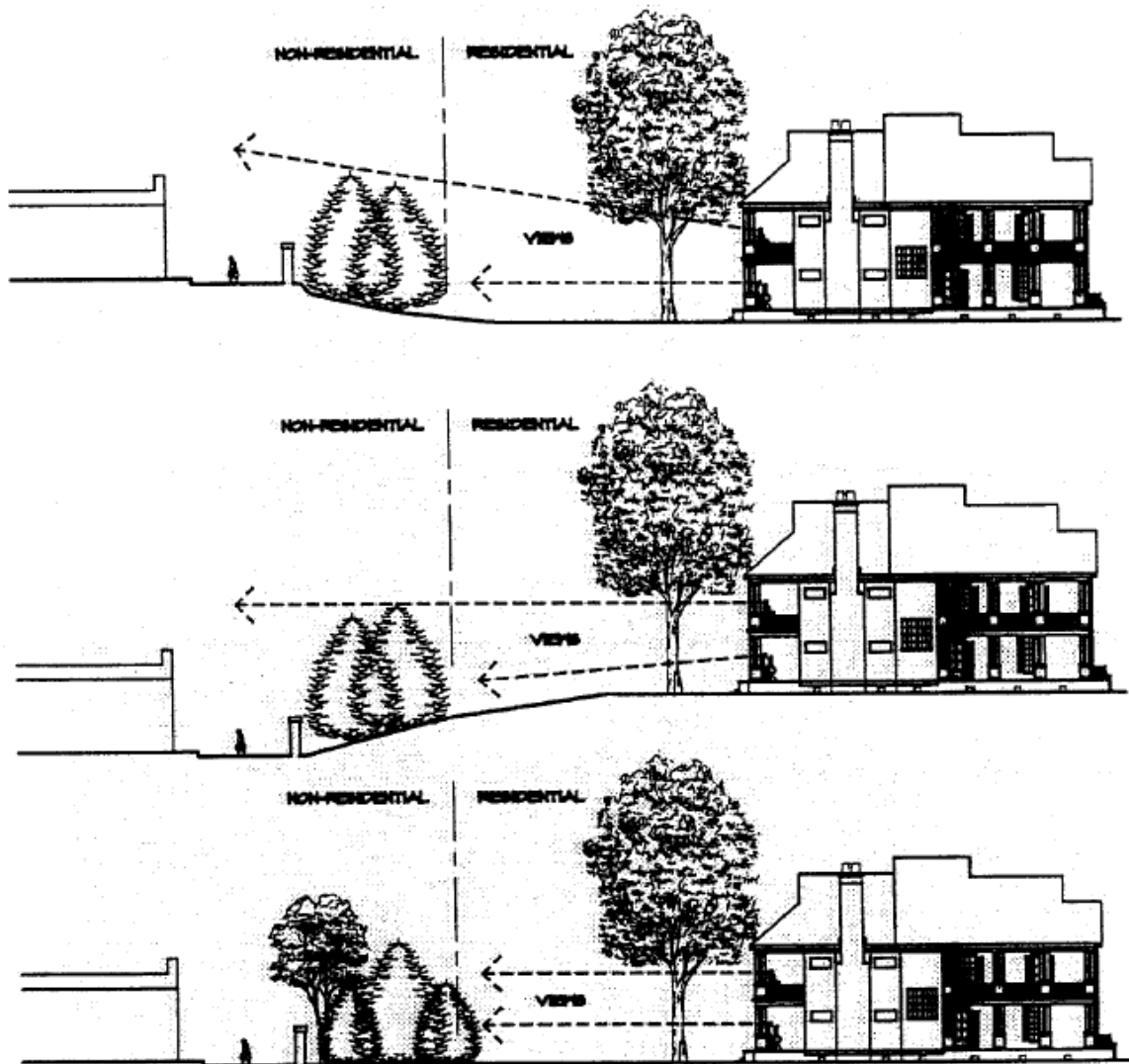


Figure 9-3.
Examples of Buffering Techniques Between Contrasting Land Uses

(5) Planting specifications. Plant materials should be sufficiently large and planted in such a manner that a year-round screen at least ten feet (10') in height shall be produced within one (1) growing season. All plantings shall be installed according to accepted horticultural standards.

(6) Maintenance of buffers. Plantings shall be watered regularly and in a manner appropriate for the specific plant species through the first growing season, and dead and dying plants shall be removed upon notification by the city and shall be replaced by the property owner. No buildings, structures, storage of materials, storage of finished goods or merchandise, or parking shall be permitted within the buffer area. Buffer areas shall be maintained and kept free of all debris, rubbish, weeds, and tall grass. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-918. Berms. (1) Whenever a berm is required as a landscape or buffer design element for screening parking and/or loading areas or other objectionable views, it shall be a minimum of one foot (1') in height.

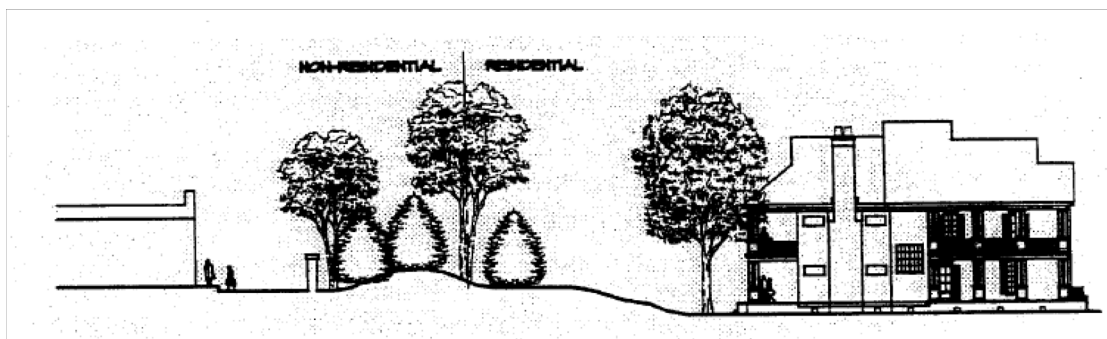
(2) Berms shall have side slopes no steeper than 3:1. When possible, all berms shall be curvilinear rather than straight. Berms are not required to be continuous and are preferred to be broken periodically, but must cover a minimum of seventy-five percent (75%) of the length of the property line to be buffered or screened.

(3) A hedge of evergreen plants obtaining a mature height greater than three feet (3') may permit a reduction in the required height of the berm upon approval by the design review commission.

(4) When planting a hedge on top of a berm, the hedge shall be a minimum of two feet (2') in height and shall be planted in an intertwined planting pattern at the time of planting.

(5) Berms separating conflicting land uses shall include a variety of evergreen and deciduous plant materials (see Figure 9-4).

Figure 9-4.
Example of Landscaped Berm



(as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-919. Median landscaping. (1) Landscape islands within street cul-de-sacs, eye brows, loop lanes, or bulbouts will be required when appropriate to minimize the amount of asphalt and enhance the appearance of the streetscape. Islands will be landscaped with trees, shrubs and mulch, including irrigation commensurate with the size of the island.

(2) When median landscaping is included as part of the project the developer and subsequent owners will be responsible for maintenance of such areas. The city, at its discretion, may add, remove, replace, or maintain landscaping within the right-of-way per city standards with any costs related to such work to be paid by the developer and/or subsequent owners of the development project.

(3) If trees are utilized, planting should be clustered and requiring minimal maintenance at maturity.

(4) If grasses are used in the median to supplement areas not covered with trees and shrubbery, the space devoted to grasses should be of sufficient width to accommodate mowing equipment.

(5) Curbing should be surrounded. No curbs surrounding medians shall be greater than six inches (6") unless required by the city engineer. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-920. Common open spaces - planned developments.

(1) Common open space required in all subdivisions and planned developments shall be landscaped as follows unless otherwise permitted in these standards:

(a) Common open space areas will have irrigated live ground cover over at least seventy-five percent (75%) of the area.

(b) Common open space in single-family residential subdivisions or planned developments or portions of subdivisions and planned developments containing single-family dwellings will be landscaped at a ratio of at least one (1) tree and five (5) shrubs for every five thousand (5,000) square feet of lot area. Required perimeter buffer areas in all subdivisions and planned developments will be landscaped at a ratio of at least one (1) tree and five (5) shrubs for every forty (40) linear feet of buffer or as required by the buffer standards specified above.

(c) Common open space for all other subdivisions and planned developments is subject to the landscaping requirements specified in this chapter.

(d) At least fifty percent (50%) of the trees will be shade deciduous species and twenty-five percent (25%) of the trees will be coniferous species, where appropriate.

(e) The developer shall have all landscaping improvements completed and in acceptable condition prior to the city's construction acceptance of public improvements and prior to turning the common open space area(s) over to the property owners association for maintenance.

(2) Stormwater detention/retention areas and other landscape areas.

Detention/retention areas are generally not acceptable for dedication to the public for parkland dedication and/or maintenance. Buffalo grass or other approved dry-land seed mixtures is to be planted and maintained by the homeowners association. Detention areas to be considered for dedication to the city for use by the city as a recreational amenity shall be landscaped as follows:

(a) The perimeter of detention areas will be landscaped with plant groupings sensitive to the detention area design and will include at least one (1) tree and five (5) shrubs for every forty (40) linear feet of perimeter. At least fifty percent (50%) of the trees will be shade deciduous species and twenty-five percent (25%) of the trees will be coniferous species, where appropriate. The use of native plant species is encouraged.

(b) Grass or other comparable vegetation will be the primary ground cover. All areas within the floodplain, including, but not limited to, the detention area bottom, shall be planted with sod and irrigated if deemed necessary by the city with an underground irrigation system. Other areas may be seeded with dry-land grass if it is maintained free of weeds and irrigation is provided until the grass is fully established. Live plant material other than grass may be planted if it is suitable to the area and is maintained free of weeds and irrigation is provided.

(c) The landscape plan will indicate the 10-year and 100-year storm detention areas.

(d) The side slopes of the pond shall not exceed 6:1 slope.

(e) The bottom of the pond shall have a minimum of one to two percent (1% - 2%) slope to ensure proper drainage, eliminate mud bogs, flush siltation building and promote multiple use of the detention pond.

(j) A concrete slab near the outlet shall be installed and sized properly to reasonably accommodate siltation to ease maintenance. A minimum trickle channel shall be maintained and, if possible, shall be located on the perimeter of the pond to facilitate multiple use of the pond.

(3) Natural features including, but not limited to, unique physiographic features such as wetlands, stream channels, rock outcropping, significant stands of trees and other native vegetation, should be preserved as amenities and properly delineated on plan documentation and protected during the development process within a subdivision or planned development. Where practical, these areas should remain in their natural state and not be altered. Alteration of natural features including, but not limited to, the removal of vegetation and/or the installation of improvements such as the construction of a pathway or irrigation system should be reviewed and approved by the City of Lakeland prior to alteration. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-921. Irrigation system requirements. (1) All required landscape areas shall have an automatic clock-activated irrigation system unless waived by the design review commission. Landscape areas without an irrigation system (when waived by the design review commission) and bearing live plant material will require temporary irrigation until the plants are established and a reliable water source sufficient to sustain plant life is provided.

(2) Irrigation systems shall meet the following criteria:

(a) An automatic controller shall activate the irrigation system.

(b) The irrigation system shall provide sufficient coverage to all landscape areas.

(c) The irrigation system shall not spray or irrigate impervious surfaces, including sidewalks, driveways, streets, and parking and loading areas.

(d) All systems shall be equipped with a backflow prevention device.

(e) All mechanical systems including controllers and backflow prevention devices shall be properly screened from public view.

(3) Portions of irrigation systems may be comprised of temporary irrigation components to irrigate low maintenance areas as if the design review commission determines that all of the following standards are met:

(a) Plant selection, design, installation specifications and site conditions combine to create a micro-climate that will sustain the plant material in a healthy condition without regular irrigation after the plant establishment period.

(b) All portions of the landscape area served by temporary irrigation will be within one hundred fifty feet (150') of an exterior water source to enable hand watering during extended dry periods.

(c) The temporary irrigation will provide reliable automated irrigation for the plants during the establishment period.

(d) The applicant has demonstrated the ability to provide ongoing long-term maintenance of landscape areas necessary to keep plant material healthy without irrigation. (as added by Ord. #04-68, Sept. 2004 and replaced by Ord. #07-100, Feb. 2007)

14-922. Mixed use developments. To allow the desired mixing and integration of uses, streetscapes, and innovative design treatments for mixed use or traditional neighborhood design developments, these design guidelines may be waived, so long as the development is a planned development, and so long as the development complies with all prior approvals of the City of Lakeland. All waived portions of the guidelines must be specifically identified in writing and approved by the planning commission, otherwise the applicable design guidelines of this chapter shall apply. (as added by Ord. #07-100, Feb. 2007)

CHAPTER 10

SITE LIGHTING REQUIREMENTS

SECTION

- 14-1001. Intent and purpose.
- 14-1002. Applicability.
- 14-1003. Definitions.
- 14-1004. Approval required.
- 14-1005. General requirements (all zoning classifications).
- 14-1006. Total outdoor light output.
- 14-1007. Height.
- 14-1008. Parking lot lighting.
- 14-1009. Minimum perimeter lighting requirements.
- 14-1010. Canopy lighting standards.
- 14-1011. Park and common space lighting requirements.
- 14-1012. Lighting plan requirements.
- 14-1013. Prohibited lighting.
- 14-1014. Exemptions.
- 14-1015. Mixed use developments.

14-1001. Intent and purpose. It is the intent of this chapter to encourage lighting practices and systems that will minimize light pollution, glare, light trespass; conserve energy and resources while maintaining night-time safety, utility, security and productivity; and curtail the degradation of the night time visual environment. The purpose of this section is to establish regulations to allow for outdoor illumination levels that are appropriate for the visual task, safety and security while minimizing the undesirable side effects of excessive illumination such as glare, sky glow and light pollution. Over time, it is the intent that this section will allow for reasonably uniform illumination levels in the community. It is also the purpose of this section to establish design criteria for outdoor lighting fixtures that will enhance the visual and aesthetic character of the City of Lakeland. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1002. Applicability. (1) New uses. All proposed new land uses, developments, buildings, structures, or building additions of twenty-five percent (25%) or more in terms of additional dwelling units, gross floor area, seating capacity, or other units of measurement specified herein, either with a single addition or cumulative additions subsequent to the effective date of this chapter, shall meet the requirements of this chapter for the entire property. This includes additions which increase the total number of required parking spaces by twenty-five percent (25%) or more. For all building additions of less than

twenty-five percent (25%) cumulative, the applicant shall only have to meet the requirements of this chapter for any new outdoor lighting provided.

(2) Change in use/intensity. Except as provided in subsection (3) below, whenever the use of any existing building, structure, premises is changed to a new use, or the intensity of use is increased through the incorporation of additional dwelling units, gross floor area, seating capacity, or other units of measurement specified herein, and which change in use or intensification of use creates a need for increase in the total number of required parking spaces of twenty-five percent (25%) or more, either with a single change or cumulative changes subsequent to the effective date of these provisions, then all outdoor lighting facilities shall meet the requirements of this chapter for the entire property, to the maximum extent possible as determined by the design review commission. For changes of use or intensity which require an increase in parking of less than twenty-five percent (25%) cumulative, the applicant shall only have to meet the requirements of this chapter for any new outdoor lighting provided.

(3) Nonconforming uses, structures or lots. Whenever a nonconforming use, structure or lot is abandoned for a period of ninety (90) consecutive days and then changed to a new use, then any existing outdoor lighting shall be reviewed and brought into compliance as necessary for the entire building, structure or premises, to the maximum extent possible as determined by the design review commission.

No outdoor lighting fixture which was lawfully installed prior to enactment of this chapter shall be required to be removed or modified except as expressly provided herein; provided, however, no modification or replacement shall be made to a nonconforming fixture unless the fixture thereafter conforms to the provisions of this chapter.

In the event that any nonconforming sign, as to lighting, is abandoned or is damaged, and the damage exceeds fifty percent (50%) of the replacement value, exclusive of foundations, to replace it, the sign shall be brought into conformance with the provisions of this chapter with respect to lighting as well as applicable provisions of the sign ordinance. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1003. Definitions. The following words and terms related to outdoor lighting are defined as follows:

(1) "Direct illumination." Illumination resulting from light emitted directly from a lamp, luminary, or reflector and is not light diffused through translucent signs or reflected from other surfaces such as the ground or building faces.

(2) "Foot candle." A unit of measure for luminance. A unit of luminance on a surface that is everywhere one foot (1') from a uniform point source of light of one (1) candle and equal to one (1) lumen per square foot.

(3) "Full cut-off type fixture." A luminaire or light fixture that by design of the housing does not allow any light dispersion or direct glare to shine above ninety degrees (90°), horizontal plane from the base of the fixture.

(4) "Fully-shielded light fixture." A light fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

(5) "Glare." The sensation produced by lighting that causes an annoyance, loss in visual performance and visibility to the eye. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.

(6) "Horizontal luminance." The measure of brightness from a light source, usually measured in foot candles or lumens, which is taken through a light meter's sensor at a horizontal position.

(7) "Illuminance." The quantity of light measured in foot candles or lux.

(8) "Light trespass." Light from an artificial light source that is intruding beyond the boundaries of the property upon which the lighting is intended to serve.

(9) "Lumen." Unit used to measure the actual amount of visible light which is produced by a lamp as specified by the manufacturer.

(10) "Luminaire." A complete lighting unit, including a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

(11) "Luminance." The physical and measurable quantity corresponding to the type of surface (e.g., a lamp, luminaires, reflecting material) in a specific area, with a luminance meter.

(12) "Motion-sensing security lighting." Any fixture designed, and properly adjusted, to illuminate an area around a residence or other building by means of switching on a lamp when motion is detected inside the area or perimeter, and switching the lamp off when the detected motion ceases.

(13) "Lux." A unit of light intensity stated in lumens per square meter. There are approximately 10.7 lux per foot candle.

(14) "Opaque." A material that does not permit light transmittal from an internal illumination source.

(15) "Outdoor lighting fixture." An outdoor illuminating device, outdoor lighting or reflective surface, lamp or similar device, permanently installed or portable, used for illumination, decoration, or advertisement. Such devices shall include, but are not limited to lights used for:

- (a) Buildings and structures;
- (b) Recreational areas;
- (c) Parking lot lighting;
- (d) Landscape lighting;
- (e) Architectural lighting;

- (f) Signs;
- (g) Street lighting;
- (h) Product display area lighting;
- (i) Building overhangs and open canopies; and
- (j) Security lighting.

(16) "Outdoor recreation facility." An area designed for active recreation, whether publicly or privately owned, including, but not limited to, parks, baseball fields, softball fields, soccer fields, football fields, golf courses and driving ranges, tennis courts, and swimming pools.

(17) "Semi cut-off light fixture." A luminaire that allows no more than six percent (6%) of the light from the lamp to be emitted above a horizontal plane passing through the luminaire's lowest light-emitting part.

(18) "Security light." Lighting designed to illuminate a property or grounds for the purpose of visual security. This includes fully shielded lighting fixtures.

(19) "Unshielded light fixture." Any fixture that allows light to be emitted above the horizontal directly from the lamp or indirectly from the fixture or reflector.

(20) "Uplighting." Any light source that distributes illumination above ninety degree (90°) horizontal plane.

(21) "Uniformity ratio." Describes the average level of illumination in relation to the lowest level of illumination for a given area. For example, a uniformity ratio of 4:1 for a given area means the lowest level of illumination (1) should be no less than twenty-five percent (25%) or "four (4) times less" than the average (4) level of illumination.

(22) "Watt." The unit used to measure the electrical power used in the illumination of a light fixture. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1004. Approval required. The design review commission shall review and approve a lighting plan as part of an application for development plan approval. Approval of a lighting plan from the design review commission is required prior to the issuance of a building permit, except for a grading permit and "foundation only" permit. All other outdoor lighting installations or replacements shall be approved by the design review commission unless otherwise authorized by this section. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1005. General requirements (all zoning classifications).

- (1) Site lighting shall minimize light spill into the dark night sky.
- (2) Metal halide fixtures shall be permitted. The use of metal halide light fixtures shall be encouraged, when not required, for outdoor illumination whenever its use would not be detrimental to the use of the property.

(3) Wherever practicable, it is encouraged that lighting installations include timers, dimmers, and/or sensors to reduce overall energy consumption and unnecessary lighting. Uses that can turn off their outdoor lighting during night hours are to be encouraged in residential districts with those requiring all night illumination to be discouraged where appropriate.

(4) Exterior lighting installations shall be designed to avoid harsh contrasts in lighting levels.

(5) Outdoor floodlighting by flood light projection above the horizontal plane is prohibited.

(6) All light fixtures including street lights, shall be located, aimed or shielded so as to minimize stray light trespassing across property boundaries.

(7) Search lights, laser light sources, or any similar high-intensity light shall not be permitted, except in emergencies by emergency response personnel.

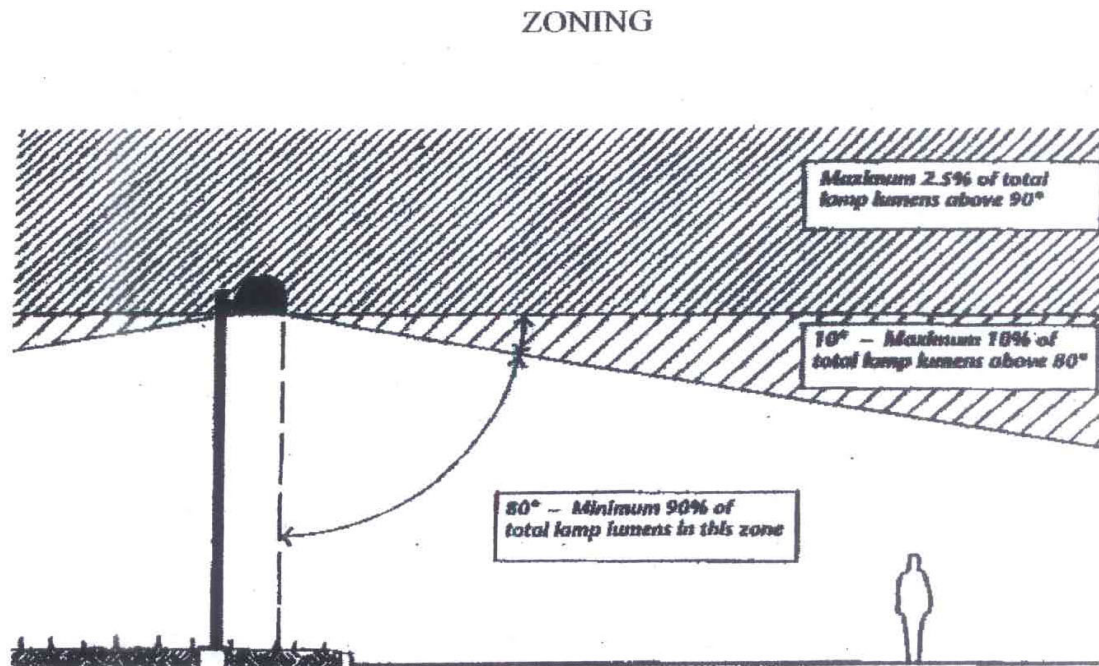
(8) Outdoor light fixtures installed on single family attached and detached properties shall be positioned so that there are no significant direct light emissions onto adjacent residential properties or public rights-of-way.

(9) Illumination for outdoor recreation facilities must conform to the shielding requirements of this chapter, except when such shielding is determined to interfere with the intended activity. For such facilities, partially-shielded luminaires are permitted. Examples of activities where partially-shielded luminaires are permitted including, but are not limited to, baseball, softball, football, soccer and lacrosse. Specifically, tennis, volleyball, racquetball and handball courts and swimming pools must utilize fully-shielded luminaires.

(10) Internal and external illumination of signs shall conform to the requirements of the sign ordinance.

(11) Except as otherwise allowed for herein, exterior light fixtures on multi-family, office, commercial and industrial projects including planned developments which use the equivalent lumens per bulb of one hundred (100) watt or more incandescent bulbs shall conform with the Illuminating Engineer Society of North America (IESNA) criteria for full cutoff fixtures; that is, no significant amount of the fixture's total output may be emitted above a vertical cutoff angle of ninety (90°) degrees. Any structural part of the fixture providing this cutoff angle must be permanently affixed.

**Figure 10-1.
Example of Full Cut-off Fixture as Defined by IESNA.**



(12) Lighting should meet the minimum IESNA standards in providing illumination and shall not exceed two hundred percent (200%) of the recommended values without specific written approval by the design review commission. Site lighting shall be designed as part of the architecture and landscaping themes of the site. Lighting should provide for appropriate and desirable nighttime illumination for all uses on and related to the site to promote a safe environment for inhabitants.

(13) Reference IESNA Recommended Practices RP-6 (Sports), RP-8 (Roadway), RP-20 (Parking Facilities) and RP-33 (Exterior Environment) for additional site lighting guidelines.

(14) Fixtures and lighting systems used for safety and security shall be in good working order and shall be maintained in a manner that serves the original design intent of the system.

(15) Glare and light trespass control shall be required to protect inhabitants from the consequences of stray light shining in inhabitant's eyes or onto neighboring properties. Light pollution control shall be required to minimize the negative effect of misdirected upward lighting.

(16) Where feasible, additional landscaping may be required by the design review commission to provide light screening between non-residential uses and residential districts to help prevent light spillage. Where landscaping

is used for light screening, the design review commission shall take into consideration the applicable landscaping standards found elsewhere in these regulations, the design standards found elsewhere in these regulations, the creation of excessive shadows or dark spaces, and views into and out of a site.

(17) Vegetation and landscaping shall be maintained in a manner that does not obstruct security lighting and minimizes possible entrapment spaces.

(18) To minimize the indiscriminate use of illumination, it is recommended that outdoor lighting, except as required for security, be extinguished during nonoperating hours,

(19) Upward lighting of building facades, monument signs up to six feet (6') tall, and outdoor artwork is permissible so long as the lighting is aimed directly at the object to be illuminated, not aimed into the sky, and light spillage is avoided. Signs mounted at a height greater than six feet (6') from the ground shall not use upward lighting. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1006. Total outdoor light output. The maximum total amount of light, measured in lumens, shall be calculated from all outdoor light fixtures. For lamp types that vary in their output as they age (such as metal halide), the initial output, as defined by the manufacturer, is the value to be considered. For determining compliance with this chapter, the light emitted from outdoor light fixtures is to be included in the total output as follows:

(1) Outdoor light fixtures installed on poles (such as parking lot luminaires) and light fixtures installed on the sides of buildings or other structures, when not shielded from above the structure itself as defined in subsections (2) and (3) below, are to be included in the total outdoor light output by simply adding the lumen outputs of the lamps used;

(2) Outdoor light fixtures installed under canopies, building overhangs, or roof eaves where the center of the lamp or luminaire is located at least five feet (5') but less than ten feet (10') from the nearest edge of the canopy or overhang are to be included in the total outdoor light output as though they produced only one-quarter (1/4) of the lamp's rated lumen output;

(3) Outdoor light fixtures located under the canopy and ten (10) or more feet from the nearest edge of a canopy, building overhang, or eave are to be included in the total outdoor light output as though they produced only one-tenth (1/10) of the lamp's rated lumen output. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1007. Height. The mounting height of light fixtures shall be as follows:

(1) The mounting height of a light fixture shall be measured from the center of the lamp to the finished grade immediately below the light fixture,

(2) The height of wall-mounted light fixtures shall not exceed the height of the wall to which it is mounted and shall have the lamp source shielded from view to minimize glare.

(3) The height of light fixtures should be in proportion to the building structure (e.g. single story building should provide pedestrian-scale lighting).

(4) For multi-family residential, office, commercial, industrial, and mixed-use developments, exterior freestanding light fixtures shall be mounted using a full cut-off type light fixture as follows:

(a) Light fixtures located within a residential district shall not exceed fourteen feet (14') in height measured from finished grade.

(b) Within fifty feet (50') of a residential zoned parcel - fourteen foot (14') maximum height of fixture measured from finished grade.

(c) Fifty-one (51) - one hundred fifty feet (150') from a residential zoned parcel - twenty foot (20') maximum height of fixture measured from finished grade.

(d) One hundred fifty-one feet (151') or more from a residential zoned parcel twenty-five foot (25') maximum measured from finished grade.

(e) The use of a twenty-five foot (25') tall pole shall require pre-approval by the design review commission prior to approval of overall site lighting plan.

(5) For residential developments with fewer than twenty (20) dwelling units, exterior freestanding light fixtures shall be mounted no more than ten feet (10') high including base of post.

(6) Freestanding light fixtures installed along the right-of-way of Canada Road or Highway 70 shall be mounted no more than forty-five feet (45') high measured from finished grade of the centerline of the street.

(7) Freestanding light fixtures installed within public right-of-ways other than Canada Road and Highway 70 shall be mounted no more than thirty-five feet (35') high measured from finished grade of the centerline of the street. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1008. Parking lot lighting. (1) Parking lot lighting shall not exceed light levels necessary for safety and located vehicles at night. To achieve this and minimize light spillage onto adjacent properties, fixtures which cut off light at ninety (90°) degrees or less from the vertical shall be used.

(2) The lighting plan shall be designed so that the parking lot is lit from the outside perimeter inward, and/or incorporate design features with the intent of reducing off-site light pollution.

(3) Illumination of parking areas shall be required for all parking areas with more than twenty (20) parking spaces.

(4) The illumination may be provided through the use of light fixtures mounted upon poles.

(5) The illumination of parking areas shall not be provided by building mounted light fixtures. Any building mounted fixtures shall be for aesthetic and security purposes only and shall be full cut-off style fixtures mounted near entryways.

(6) Lighting shall be designed to provide for uniform lighting throughout the site with no dark patches or pockets.

(7) No fixtures that shine outward and create a glare from a street right-of-way or residential property shall be permitted.

(8) Lighting used to illuminate parking areas shall be arranged, located or screened to direct light away from any adjoining or abutting residential district or any street right-of-way. Light poles and fixtures shall meet the following criteria:

(a) The style of light poles and fixtures should reflect the architectural character of the area and streetscape.

(b) Maintain parking lot poles/fixtures of the same style, height, color and intensity of lighting throughout the development site. Varying styles of fixtures may be permitted if it is demonstrated that the styles contribute to an overall theme for the area.

(c) Light fixtures shall be nonadjustable, horizontally mounted fixtures, or fixtures with ninety (90) degree or less luminaire cutoff. Fixtures that project light or glare toward a street right-of-way or neighboring property shall not be permitted.

(9) Illumination for parking areas shall be provided as follows:

(a) Average maintained footcandles. The maximum average maintained footcandles for all parking lots shall be three (3), unless otherwise approved by the design review commission. For purposes of this chapter, the average maintained foot-candles shall be calculated at eight-tenths (0.8) of initial footcandles.

(b) Minimum footcandles and uniformity ratio. The minimum amount of maintained illuminations for open parking shall be as provided in Table 10-1 below.

Table 10.1
Minimum Footcandles and Uniformity Ratio (Max to Min)

<u>Uses</u>	<u>Footcandles</u>	<u>Uniformity Ratio</u>
Low Activity	0.5	25:1
Medium Activity	1.0	20:1
High Activity	2.0	15:1

For purposes of interpreting Table 10-1 above, the following rules shall apply: high activity uses shall include athletic events, major cultural or civic events, major regional shopping centers and similar uses; medium activity uses include fast food restaurants, financial institutions, community shopping centers (fifteen (15) acres or more in land area), hospitals, residential complex parking and similar uses; low activity uses include local merchant parking (less than fifteen (15) acre sites), industrial and office park parking, educational parking and similar uses.

(c) The maximum maintained vertical footcandle at an adjacent residential district shall be one-half (0.5) footcandle measured five feet (5') above finished grade.

(d) The required illumination within a nonresidential development shall be measured at finished grade. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1009. Minimum perimeter lighting requirements. (1) Lighting levels shall be based on initial lamp lumens and 1.0 maintenance factor.

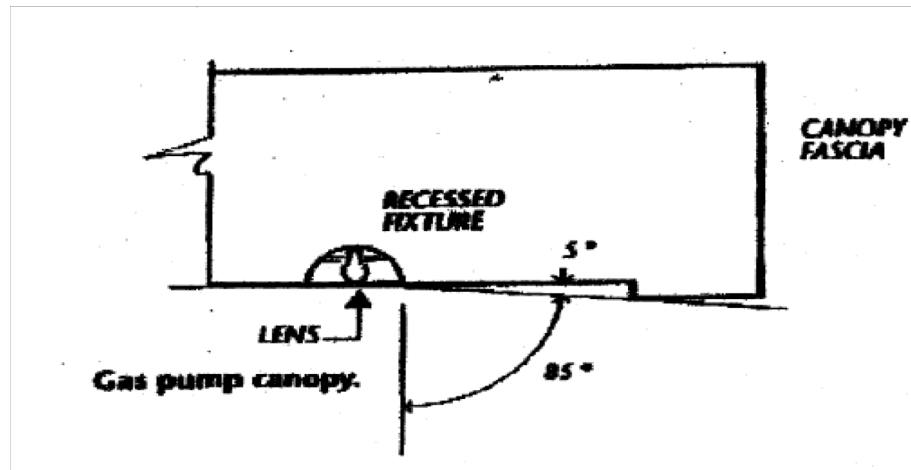
(2) For lighting levels adjacent to commercial property, the lighting shall not exceed one (1) foot-candle of illumination at the property line, and shall not exceed one-half (1/2) foot-candle ten feet (10) over the property line.

(3) For lighting levels adjacent to residential zoned property, the lighting shall not exceed one-half (1/2) foot-candle of illumination at the property line and shall not exceed one-quarter (1/4) foot-candle ten feet (10') over the property line. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1010. Canopy lighting standards. Lighting levels for canopies and aprons of commercial facilities shall be adequate only to facilitate the activities taking place in such location and shall not be used to attract attention to the business. It is recommended that the maximum level of illumination underneath the canopy not exceed ten (10) footcandles. The following standards shall be met:

(1) Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy and/or shielded by the fixture or the edge of the canopy so that light is restrained to no more than eighty-five (85°) degrees from vertical, as shown in Figure 10-2 below.

Figure 10.2
Canopy Light Fixture Mount



(2) All luminaires mounted on the under surface of a canopy shall be fully shielded and utilize flat glass or flat plastic (acrylic or polycarbonate) covers.

(3) The total light output used for illumination service station canopies, defined as the sum of all under-canopy initial bare-lamp outputs in lumens, shall not exceed twenty (20) lumens per square foot of canopy in the C-2, General Commercial District, and shall not exceed fifteen (15) lumens per square foot in the C-1, Neighborhood Commercial District. All lighting mounted under the canopy, including but not limited to luminaires mounted on the lower surface of the canopy and auxiliary lighting, is to be included toward the total permitted light output.

(4) Lights shall not be mounted on the top or sides (fascias) of the canopy, and the sides (fascias) of the canopy shall not be illuminated in whole or part.

(5) Canopies shall be constructed of non-light-emitting material. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1011. Park and common space lighting requirements. Park and common open space lighting shall conform to the following requirements:

(1) Light fixtures in municipal parks, pocket parks, common open spaces, and athletic fields shall employ full cutoff fixtures or fixtures designed to direct light downward.

(2) Where it is established that there is a need for some up lighting, such as a baseball park, "sharp cutoff" fixtures, ones in which there is very good beam control of the light output, shall be used.

(3) Lighting is discouraged on undeveloped open space and passive recreation areas. Any lighting installed on open space lands shall be pedestrian-scale with preference for bollard-style lighting.

(4) Recreational facility. No outdoor recreational facility, public or private, shall be illuminated by nonconforming means after 11:00 P.M. except to conclude any recreational or sporting event or other activity conducted at the facility in progress prior to 11:00 P.M.

(5) Lighting for all recreational facilities shall be reviewed on a case by-case basis. New sports lighting systems shall be furnished with glare control. Lighting fixtures shall be mounted and aimed so that the illumination falls within the primary playing field and immediate surroundings so that no direct light illumination is directed off site. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1012. Lighting plan requirements. A lighting plan, prepared to the same scale as the site plan, shall be submitted for approval by the design review commission. The lighting plan shall contain the following information:

(1) A site plan drawn to scale showing all existing and proposed buildings, landscaping, parking and loading areas, driveways and pedestrian ways, and proposed exterior lighting fixtures.

(2) Site plan depicting the location of all exterior light fixtures and a numerical grid of lighting levels (in footcandles) showing footcandle readings every twenty-five feet (25') within the property or site that the fixtures will produce on the ground (photometric analysis), and at ten feet (10') beyond the property lines at a scale specified on the site plan. An iso-footcandle contour line style plan is also acceptable. A report shall accompany the photometric plan that indicates the minimum, maximum and average foot-candle lighting levels, max-to-min ratio, and shall also indicate the light level at the property line.

(3) Exterior light fixtures installed under canopies, building overhangs, or roof eaves where the center of the lamp or luminaire is located at least five feet (5') but less than ten feet (10') from the nearest edge of a canopy, building overhang, or roof eave are to be included in the total outdoor light output as though they produced only one-quarter (1/4) of the lamp's rated lumen output.

(4) Exterior light fixtures located under the canopy and ten (10) or more feet from the nearest edge of a canopy, building overhang, or roof eave are to be included in the total outdoor light output as though they produced only one-tenth (1/10) of the lamp's rated lumen output.

(5) The calculation shall be measured at finished grade for light levels within the parking lot.

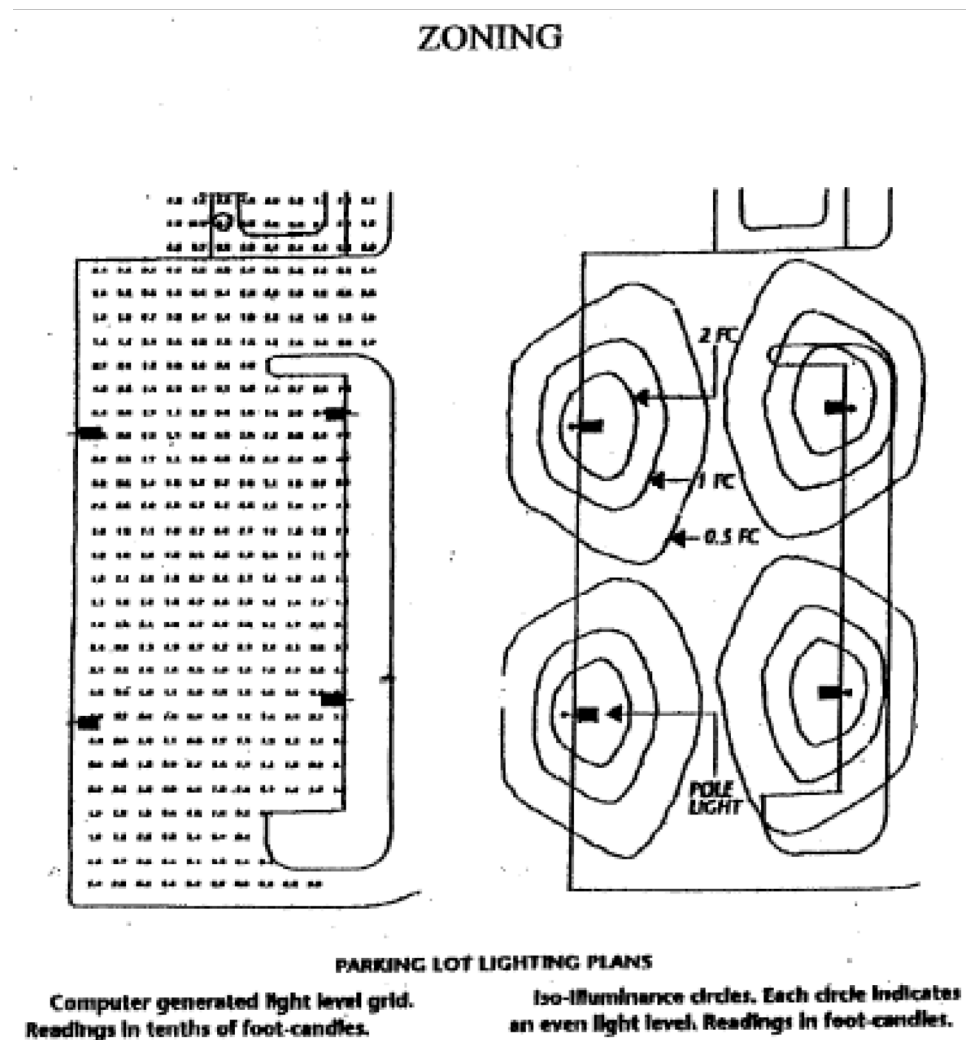
(6) Area of illumination.

(7) Indicate the means intended for on/off control of exterior lighting fixtures.

(8) Lamp type and wattage.

- (9) Mounting height of all fixtures.
- (10) A cut sheet of the proposed fixtures, including the candlepower calculation and an illustration depicting the design and finishes of all fixtures and designation as IESNA "cutoff" fixtures.
- (11) Drawings of all relevant building elevations showing the location and aiming points of accent light fixtures.

Figure 10.3



(as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1013. Prohibited lighting. The following lighting is prohibited as follows:

- (1) Blinking and flashing lights.
- (2) Mercury vapor lighting fixtures.
- (3) Exposed strip lighting used to illuminate building facades or outline buildings or architectural features unless otherwise authorized by the design review commission.
- (4) Neon tubing except as allowed as a means of illumination for signage in accordance with the Sign Ordinance of the City of Lakeland.
- (5) Any light that may be confused with or construed as a traffic control device except as authorized by the federal government, State of Tennessee, or City of Lakeland.
- (6) Beacons and search lights, except as used for rescue operations by the City of Lakeland and Shelby County. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1014. Exemptions. Provided that no dangerous glare is created on adjacent streets or properties, the following lighting is exempt from the regulations of this section:

- (1) Holiday-style lighting;
- (2) Street lighting installed by MLGW upon authorization by the City of Lakeland for the benefit of public health, safety and welfare. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

14-1015. Mixed use developments. To allow the desired mixing and integration of uses, streetscapes, and innovative design treatments for mixed use or traditional neighborhood design developments, these design guidelines may be waived, so long as the development is a planned development, and so long as the development complies with all prior approvals of the City of Lakeland. All waived portions of the guidelines must be specifically identified in writing and approved by the planning commission, otherwise the applicable design guidelines of this chapter shall apply. (as added by Ord. #04-69, Sept. 2004, and replaced by Ord. #07-101, Feb. 2007)

CHAPTER 11

ARCHITECTURAL DESIGN STANDARDS

SECTION

- 14-1101. Purpose.
- 14-1102. Procedure.
- 14-1103. Definitions.
- 14-1104. Arrangement and orientation of buildings.
- 14-1105. Facades and exterior walls.
- 14-1106. Detail features.
- 14-1107. Mixed use developments.

14-1101. Purpose. The purpose of these design standards is to augment the existing design criteria in the Zoning Ordinance and Subdivision Regulations with more specific design standards that apply to the design of non-residential structures including those found in retail and office and mixed-use developments. These design standards require a basic level of architectural variety, compatible scale, pedestrian and bicycle access, and mitigation of negative impacts. (as added by Ord. #04-07, Sept. 2004, and replaced by Ord. #07-102, Feb. 2007)

14-1102. Procedure. The following design standards are intended to be used as a framework by developers proposing office, retail, industrial and planned developments and as an evaluation tool by staff and the design review commission in their review process. These standards shall apply to all projects in office, commercial and industrial zoning districts and also planned developments, which are processed according to the criteria for proposed development plans. These standards are to be used in conjunction with the Zoning Ordinance, Subdivision Regulations, and other applicable local regulations. (as added by Ord. #04-07, Sept. 2004, and replaced by Ord. #07-102, Feb. 2007)

14-1103. Definitions. (1) "Arcade." An area contiguous to a street or plaza that is open and unobstructed, and that is accessible to the public at all times. Arcades may include building columns, landscaping, statuary and fountains. Arcades do not include off-street loading/unloading areas, driveways or parking areas.

(2) "Articulate." To give emphasis to or distinctly identify a particular element. An articulated facade would be the emphasis of elements on the face of a wall including a change in setback, materials, roof pitch or height.

(3) "Berm." An earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise or provide a buffer from adjoining land uses.

(4) "Breezeway." A structure for the principal purpose of connecting a main building or structure on a property with other buildings.

(5) "Buffer." See also "screen." An area provided to reduce the conflict between two (2) different land uses. Buffers are intended to mitigate undesired views, noise and glare effectively providing greater privacy to neighboring land uses. Typical buffers consist of materials that serve this purpose and include, but are not limited to, plant materials, walls, fences, earthen mounds, and/or significant land area to separate land uses.

(6) "Buffer strip." A portion of a lot or property used to visually separate one use from another through the use of vegetation, distance or other approved method.

(7) "Building face, public." Any building face, which can be touched by a line drawn perpendicular to a street (public or private).

(8) "Building mass." The building's expanse or bulk and is typically used in reference to structures of considerable size.

(9) "Design standards." Statements and graphics intended to direct the planning and development of the built environment in a particular manner or style so that the end result contributes positively to the overall development and continuity with the surrounding community.

(10) "Dormer." A window set vertically in a gable projecting from a sloping roof.

(11) "Facade." The portion of any exterior elevation on the building extending from the finished grade to the top of the parapet, wall or eaves and extending the entire length of the building.

(12) "Front yard." The portion of the front yard extending the full width of the lot and measured between the front lot line and the parallel line across the front of the building. Corner and double lots shall adhere to the front yard setback(s) for each frontage.

(13) "Gable." A triangular wall section at the end of a pitched roof, bounded by the two (2) roof slopes.

(14) "Hip roof." Roof without gables.

(15) "Parapet." The portion of a wall that extends above the roofline.

(16) "Pedestrian oriented development." Development designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and buildings/structures rather than on auto access. The buildings/structures are generally located close to the public or private right-of-way and the main entrance(s) is (are) oriented to the street sidewalk. There are generally windows or display cases along building facades. Although parking is provided, it is generally limited in size and location to side and rear portions of this site.

(17) "Pedestrian walkway." A surfaced walkway, separated from the travel portion of a public or private right-of-way or parking lot/driving aisle.

(18) "Portico." A porch or walkway with a roof supported by columns, often leading to the entrance to a building.

(19) "Public right-of-way." Any public road or access easement intended to provide public access to any lot or development, but excluding any internal driving aisles (i.e., within parking lots).

(20) "Screen." See also "buffer." The sole purpose of a screen is to block views. A screen should be constructed of opaque materials and be of sufficient height to effectively obstruct unwanted or undesirable views. Screen materials may include, but are not limited to, evergreen landscaping materials planted in an intertwined manner, fences, and/or walls.

(21) "Setback." Within these standards, the term also refers to the minimum distance and area measured from the property line to the interior of a parcel where buildings may be constructed, the required distance and the area between the edge of the parking lot pavement/curb and the property line or buildings/structures, and placing a building face on a line to the rear of another building line.

(22) "Streetscape." All elements of a development or area that in view from other points along a street. (as added by Ord. #04-07, Sept. 2004, and replaced by Ord. #07-102, Feb. 2007)

14-1104. Arrangement and orientation of buildings. Arrange buildings to orient to and help define the street, to frame corners, to encourage pedestrian activity and define public spaces.

(1) Compact building arrangements should be used in commercial districts to reduce the feeling of seas of parking, encourage pedestrian activity and define public space.

(2) Building arrangement should be contiguous along street faces to avoid large breaks between buildings.

(3) Deep setbacks behind parking areas should be avoided.

(4) Outparcel buildings should be used to frame corners, define street edges, and orient traffic toward primary and secondary entrances from public rights-of-way.

(5) Site new buildings so that they relate to adjoining buildings and developments.

(a) If existing buildings front the street, new buildings should have similar orientation.

(b) Relate setbacks of new construction to setbacks of surrounding existing buildings or developments.

(c) Orient a portion of retail or office development to adjoining neighborhoods and to local streets leading into the adjoining neighborhood including provisions for pedestrian connectivity.

(d) Provide breaks in large developments and building masses to allow pedestrian connections between developments.

(e) Around common open space and plazas, use buildings to define edges and provide comfortable scale.

(f) Buildings should be arranged so as to provide an attractive termination of vistas.

(g) Avoid orienting service areas toward primary elevations of adjoining developments. (as added by Ord. #04-07, Sept. 2004, and replaced by Ord. #07-102, Feb. 2007)

14-1105. Facades and exterior walls. Facades should be articulated to reduce the massive scale and the uniform, impersonal appearances of buildings and provide visual interest that will be consistent with the community's identity, character and scale. The intent is to encourage a more human scale that residents of Lakeland will be able to identify with their community. The resulting scale will ensure a greater likelihood of reuse of structures by subsequent tenants.

(1) Buildings with facades less than one hundred (100') feet in linear length shall incorporate wall projections or recesses a minimum of two (2') feet in depth and a minimum of ten (10) contiguous feet within each thirty (30') feet of facade length. The street level facade of such buildings shall be transparent between the height of three (3') feet and eight (8') feet above the walkway grade for no less than sixty (60%) percent of the horizontal length of the building facade. Windows shall be recessed and should include visually prominent sills, shutters, or other such forms of framing. The remaining forty (40%) percent of the street level facade shall use animating features such as arcades, display windows, entry areas, or awnings.

(2) Buildings with facades one hundred feet (100') or more in linear length shall incorporate wall projections or recesses a minimum of three feet (3') and a minimum of twenty (20) contiguous feet within each one hundred (100) linear feet of facade length and shall extend over twenty (20%) percent of the facade. Buildings shall use animated features such as arcades, display windows, entry areas, or awnings along at least sixty (60%) percent of the facade. (as added by Ord. #04-07, Sept. 2004, and replaced by Ord. #07-102, Feb. 2007)

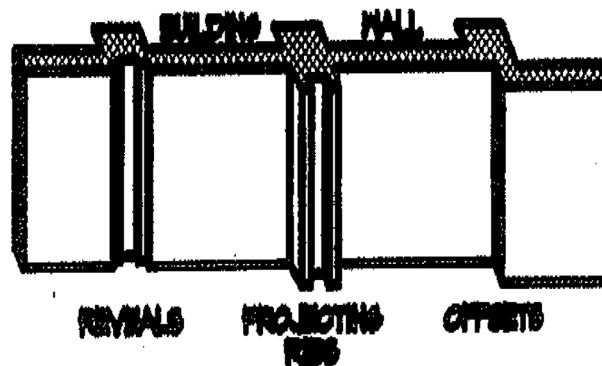
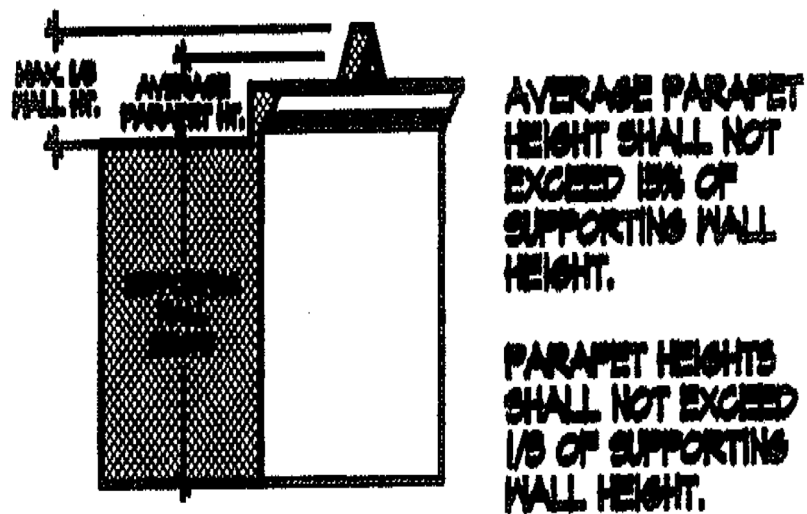
14-1106. Detail features. (1) Buildings should have architectural features and patterns that provide visual interests, at the scale of the pedestrian, reduce massive aesthetic effects, and recognize local character. The elements in the following standard should be integral parts of the building fabric, and not superficially applied trim or graphics, or paint.

(a) Building facades shall include a repeating pattern that shall include no less than three of the elements listed below. At least one (1) of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than thirty feet (30'), either horizontally or vertically.

- (i) Color change;
- (ii) Texture change;
- (iii) Material module change;

- (iv) Expression of architecture or structural bay through a change in plane no less than eighteen inches (18") in width, such as an offset, reveal, or projecting rib.

Figure 11.1.
Examples of Architectural Detail Features
Depicting Building Wall and Structural Bay Layouts

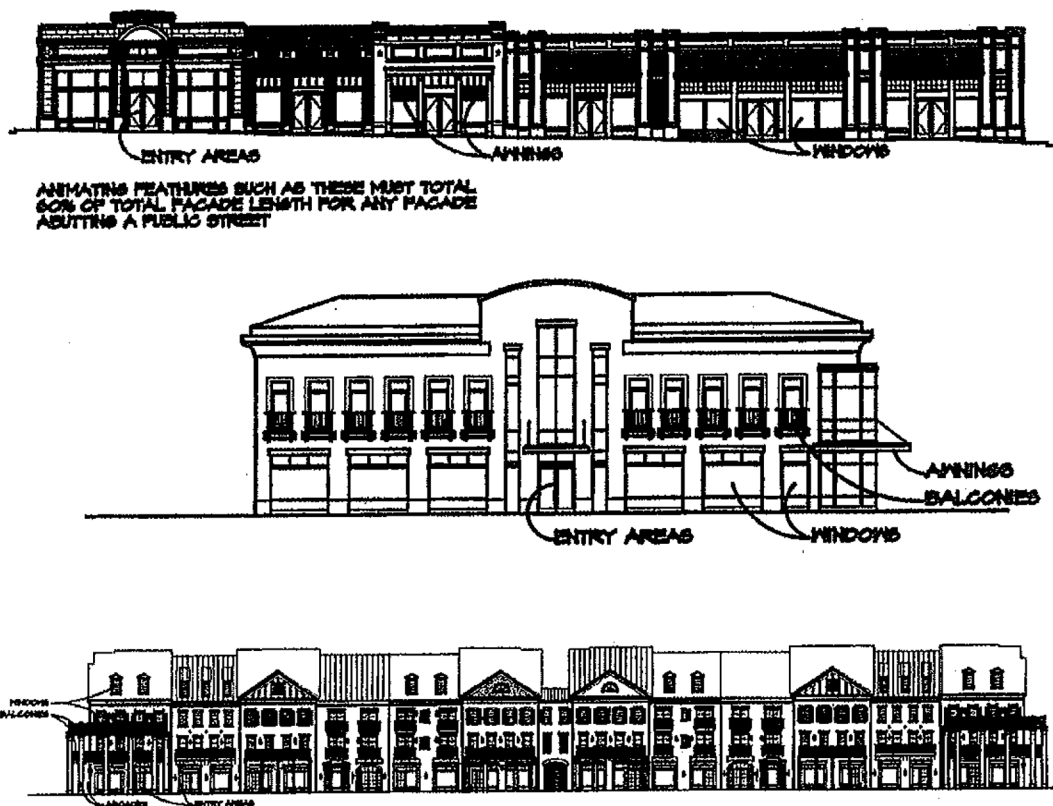


(b) Roofs. Variations in roof lines should be used to add interest to, and reduce the massive scale of large buildings. Roof features should compliment the character of adjoining neighborhoods.

(i) Roof lines shall be varied with a change in height every one hundred (100) linear feet in the building length. Parapets, mansard roofs, gable roofs, hip roofs, or donners shall be used to conceal flat roofs and roof top mechanical equipment from public view. Alternating lengths and designs may be acceptable upon approval by the design review commission.

Figure 11.2
Example of Varying Rooflines and Architectural Detailing

Figure 11.2.
Example of Varying Rooflines and Architectural Detailing



(iii) Roof materials. Roof materials shall compliment the building architecture. Architectural shingle, metal, and other forms of metal roofing are considered acceptable roofing materials for non-residential construction applications. Rubberized membrane roofing is acceptable so long as it is not visible from the public right-of-way or adjoining residential properties.

(c) Materials and colors. Exterior building materials and colors comprise a significant part of the visual impact of a building. Therefore, they should be aesthetically pleasing and compatible with materials and colors used in adjoining neighborhoods.

(i) Predominant exterior building materials shall be high quality materials. These include, but are not limited to, the following materials:

- (A) Brick;
- (B) Sandstone;
- (C) Other native stone;
- (D) Tinted, textured, concrete masonry units;
- (E) Stucco;
- (F) Treated and stained wood (including cementous board materials).

(ii) Facade colors shall be low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.

(iii) Building trim and accent areas may feature brighter colors, but neon tubing is prohibited for building trim or accent areas.

(iv) Predominant exterior building materials as well as architectural accents should not include the following:

- (A) Smooth-faced concrete block;
- (B) Tilt-up concrete panels (smooth finish);
- (C) Pre-fabricated steel panels;
- (D) Untreated wood.

(d) Entryways. Entryway design elements and variations should give orientation and aesthetically pleasing character to the building. The standards identify desirable entryway design features.

(i) Each principal building on a site shall have clearly defined, highly visible customer entrances featuring no less than four (4) of the following:

- (A) Canopies or porticos;
- (B) Overhangs;
- (C) Recesses/projections;
- (D) Arcades;
- (E) Raised corniced parapets over the door;
- (F) Peaked roof forms;

- (G) Arches;
- (H) Outdoor patios;
- (I) Display windows;
- (J) Architectural details such as tile work and moldings which are integrated into the building structure and design;
- (K) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.

(e) Entrances for large retail establishments. Large retail establishments containing more than one hundred thousand (100,000) square feet of gross leasable floor area should feature multiple entrances. Multiple building entrances reduce walking distances from automobiles, facilitate pedestrian and bicycle access from public sidewalks, and provide convenience where certain entrances offer access to individual stores, or identified departments in a store. Multiple entrances also mitigate the effect of the unbroken walls and neglected areas that often characterize building facades that face bordering land uses.

(i) All sides of a principal building that directly face an abutting public right-of-way shall feature at least one (1) customer entrance. Where a principal building directly faces more than two (2) abutting public rights-of-way, this requirement shall apply only to two (2) sides of the building, including the side of the building facing the primary street, and another side of the building facing a secondary street.

(ii) The number of entrances for the principal building shall be addressed during the review of the preliminary development plan. Where additional stores or offices will be located in the principal building, each such store shall have at least one (1) exterior customer entrance, which shall conform to the above requirements.

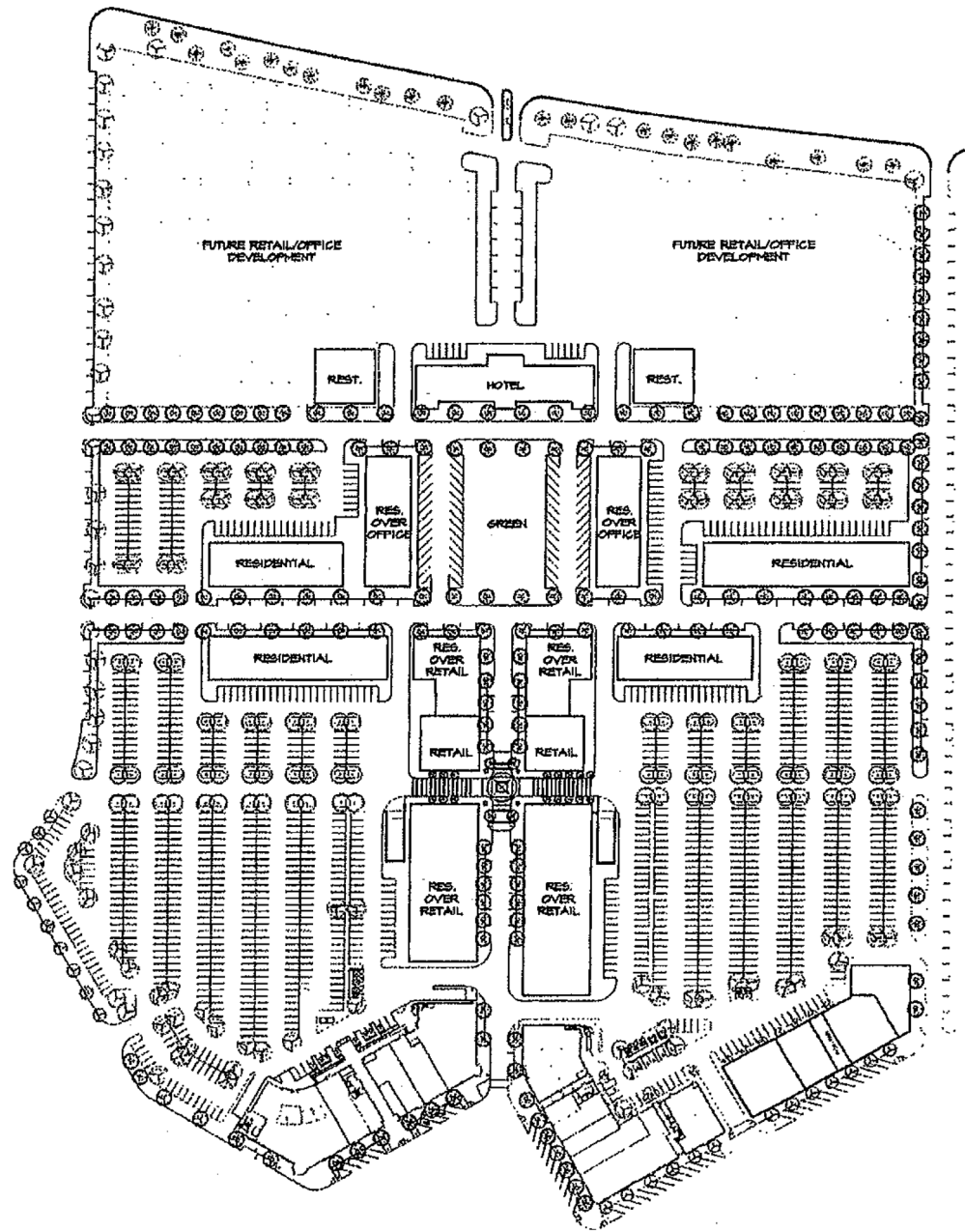
(iii) The rear or sides of buildings often present an unattractive view of blank walls, loading areas, storage areas, mechanical units and meters, garbage receptacles, and other such features. Architectural and landscaping features should be utilized to mitigate these impacts. Any back or side of a building visible from a public street or residential district shall be designed in accordance with provisions governing front facades of buildings relative to facades and exterior walls, detail features, roofs, and materials and colors.

(A) Where the facade faces adjacent residential uses an earthen berm shall be installed, no less than six feet (6') in height, containing at a minimum, a double row of evergreen trees planted at intervals of fifteen feet (15') on

center. Deciduous trees may only be used for visual interest on the berm.

(B) Additional landscaping may be required by the design review commission to effectively buffer adjacent residential land uses as deemed appropriate.

Figure 11.3
Example of Entrance Configuration for Retail Development



(f) Screening requirements for mechanical systems, outdoor storage and trash collection areas. Outdoor storage areas and trash collection facilities often exert visual and noise impacts on surrounding property. These areas, when visible from adjoining property and/or public streets, should be screened, recessed or enclosed. While screens and recesses can effectively mitigate impacts, the selection of inappropriate screening materials can exacerbate the impacts to adjoining property. Appropriate locations for outdoor storage areas including areas between buildings, where more than one building is located on a site and such buildings are not more than forty feet (40') apart, or on those sides of building that do not have customer entrances.

(i) Unattractive elements such as outdoor storage, trash collection or compaction, truck parking and loading areas are to be located out of public view from streets, adjacent residential property, and other highly visible areas such as parking lot access drives.

(ii) No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall only be located in a side or rear yard and shall not be within twenty feet (20') of any internal sidewalk or pedestrian way.

(iii) Refuse collection areas shall be fully enclosed and screened from public view on at least three (3) sides with a six to eight foot (6'-8') opaque screen of masonry or equivalent material similar to the primary building material used on the principal structure and shall be supplemented with evergreen trees and shrubbery that blend into the overall landscape treatment for the development

(iv) Outdoor storage, utility meters, HVAC and other mechanical equipment, trash dumpsters and receptacles, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustical impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscaping.

(v) Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities' meter banks and coolers shall be screened from public view with landscaping or with an architectural treatment compatible with the building architecture.

(vi) Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls and/or fences. Materials, colors and design of screening walls and/or fences and the cover shall conform to those used as

predominant materials and colors of the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the building.

(vii) All roof-top equipment shall be screened from public view with an architectural treatment which is compatible with the building architecture and integral to the overall appearance of the building. The methods of screening of rooftop equipment include, but are not limited to, encasement or partition screens. Equipment screens shall be required at a height that is as high as or higher than the equipment being screened. After submittal of justification and careful analysis (i.e., site line visibility study), the design review commission may grant exceptions to the screening requirements if one of the following exception criteria is valid.

(A) A building is located at a high elevation in relation to surrounding properties and it is demonstrated that rooftop equipment will not be visible.

(B) A building is located in the middle of a commercial or office development and the rooftop equipment is not visible from arterial or collector right-of-ways, residential properties, nor will it have a negative impact upon any sensitive areas or scenic view or vistas.

(C) A building is sited in a manner where the location and setback of rooftop equipment from the building edge in relation to the elevation and visibility of surrounding properties is such that the equipment will not be visible from any distance and additional screening measures are not required. (as added by Ord. #04-07, Sept. 2004, and replaced by Ord. #07-102, Feb. 2007)

14-1107. Mixed use developments. To allow the desired mixing and integration of uses, streetscapes, and innovative design treatments for mixed use or traditional neighborhood design developments, these design guidelines may be waived, so long as the development is a planned development, and so long as the development complies with all prior approvals of the City of Lakeland. All waived portions of the guidelines must be specifically identified in writing and approved by the planning commission, or the applicable design guidelines of this chapter shall apply. (as added by Ord. #07-102, Feb. 2007)

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. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.
- 15-113. 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.

- 15-114. Clinging to vehicles in motion.
- 15-115. Weight limits.
- 15-116. Riding on outside of vehicles.
- 15-117. Backing vehicles.
- 15-118. Projections from the rear of vehicles.
- 15-119. Causing unnecessary noise.
- 15-120. Vehicles and operators to be licensed.
- 15-121. Passing.
- 15-122. Damaging pavements.
- 15-123. Motorcycle, bicycle riders, etc.
- 15-124. Unlicensed motorized 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. (1989 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. (1989 Code, § 9-106)

15-103. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1989 Code, § 9-107)

15-104. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1989 Code, § 9-109)

15-105. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

- (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.
- (b) When the right half of a roadway is closed to traffic while under construction or repair.
- (c) Upon a roadway designated and signposted by the municipality for one-way traffic.
- (d) When other emergency situations are declared by competent authority.

(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. (1989 Code, § 9-110)

15-106. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1989 Code, § 9-111)

15-107. 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. (1989 Code, § 9-112)

15-108. 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, county or the municipality unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (1989 Code, § 9-113)

15-109. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,² published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type

¹Municipal code references

Stop signs, yield signs, flashing signals: §§ 15-504--15-506.

²This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

and location throughout the city. This section shall not be construed as being mandatory but is merely directive. (1989 Code, § 9-114)

15-110. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal 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. (1989 Code, § 9-115)

15-111. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1989 Code, § 9-116)

15-112. 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 or sheriff 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. (1989 Code, § 9-117, modified)

15-113. 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. (1989 Code, § 9-118)

15-114. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, roller blades, ATVs, go carts 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. (1989 Code, § 9-120, modified)

15-115. Weight limits. It shall be unlawful for trucks and vehicles over twelve thousand (12,000) pounds gross vehicle weight to be operated or parked on residential district streets/roads maintained by the city. This shall not apply to emergency vehicles, or to vehicles on local deliveries and/or vehicles engaged in daily public or domestic maintenance endeavors. However, in no event shall such exempted vehicles be allowed to park unattended or overnight on any city street or road without a permit issued by city hall. When such permits are

issued, it will be the responsibility of the driver/owner of the vehicle to install any and all required traffic control devices and/or barriers to forewarn and protect the driving public. For purposes of this prohibition, trucks exceeding 12,000 pounds GVW may not travel north of Davies Plantation Road east nor south of the Mall entrance. (1989 Code, § 9-121, modified)

15-116. 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. (1989 Code, § 9-122, modified)

15-117. 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. (1989 Code, § 9-123)

15-118. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1989 Code, § 9-124)

15-119. 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. (1989 Code, § 9-125)

15-120. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1989 Code, § 9-126)

15-121. 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. (1989 Code, § 9-127)

15-122. Damaging pavements. No person shall operate or cause to be operated upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1989 Code, § 9-119)

15-123. Motorcycle, bicycle riders, etc. (1) Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

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

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

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

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

(6) Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

(7) Every motorcycle or motor driven cycle 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 or motor driven cycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lenses for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(8) 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, ATV, go carts or motor driven cycle in violation of this section.

(9) Official events (road races, bicycle tours, etc.) shall require an official permit to be obtained from Lakeland City Hall 30 days prior to the event. Permit fee to be fifty dollars (\$50.00). In no case shall more than one traffic lane be blocked. See § 16-108 for additional required deposit.

(10) No person shall operate a bicycle on public property in any area other than a public street or road (including right-of-way), or on a path, trail or other area specifically designated for bicycle riding. (1989 Code, § 9-128, modified, as amended by Ord. #02-02, Feb. 2002)

15-124. Unlicensed motorized vehicles. (1) ATVs, go carts, or any unlicensed motorized vehicles are prohibited on public streets, right-of-ways, and public parks.

(2) It shall be unlawful to operate ATVs, go carts, and other motorized vehicles without written permission of the property owner.

(3) 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, ATV, go cart or motor driven cycle in violation of this section.

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the city manager. (1989 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 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1989 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 (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1989 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1989 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In congested areas.

15-304. Speed limits on Cobb Road, Memphis Arlington Road, Monroe Road, and Old Brunswick Road.

15-301. In general. It shall be unlawful for any person to operate a motor vehicle upon the streets of the City of Lakeland at a speed greater than twenty-five (25) mph, except in areas designated for a greater speed. (1989 Code, § 9-201, as amended by Ord. #02-04, March 2002)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1989 Code, § 9-202)

15-303. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (1989 Code, § 9-203)

15-304. Speed limits on Cobb Road, Memphis Arlington Road, Monroe Road, and Old Brunswick Road. The speed limit on Cobb Road, Memphis Arlington, Monroe Road, and Old Brunswick Road shall be as listed in the table below:

Roadway	Length	Current Speed Limit	Proposed Speed Limit
Cobb Road	Brentbrook Avenue to Monroe	45 mph	30 mph
Memphis Arlington Road	Evergreen Road to end of eastern corporate limits	45 mph	35 mph
Memphis Arlington Road	Wren Hill Drive to Canada Road	45 mph	35 mph
Monroe Road	Cobb Road to Chambers Chapel	45 mph	30 mph

Roadway	Length	Current Speed Limit	Proposed Speed Limit
Old Brunswick Road	Jack Bond to Stewart Road	35 mph	30 mph

(as added by Ord. #11-160, July 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 (1989 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. (1989 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1989 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1989 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1989 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 "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At flashing traffic-control signals.
- 15-507. 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, 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. (1989 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. (1989 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. (1989 Code, § 9-403)

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1989 Code, § 9-404)

15-505. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1989 Code, § 9-405)

15-506. At flashing traffic-control signals. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(1) **Flashing red (stop signal).** When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if 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.

(2) **Flashing yellow (caution signal).** When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. (1989 Code, § 9-406)

15-507. 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. (1989 Code, § 9-407)

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. Presumption with respect to illegal parking.
- 15-607. No parking zones.
- 15-608. Impounding vehicles obstructing streets.
- 15-609. Parking and/or storage of recreational vehicles and equipment.

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 city shall be so parked that its right wheels are approximately parallel to and within six (6) inches of the right edge or curb of the street. On one-way streets where the city 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 six (6) inches 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 for more than seventy-two (72) consecutive hours without the prior approval of the city manager. Nor shall any person park or leave a recreational vehicle, camper, utility trailer, boat, or any other recreational or non-self propelled vehicle on any street at any time.

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. (1989 Code, § 9-501, modified)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1989 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. (1989 Code, § 9-503)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state, county or city, nor:

- (1) On a sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection or within fifteen (15) feet thereof.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) Within a pedestrian crosswalk.
- (6) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance.
- (7) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (8) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (9) Upon any bridge.
- (10) Alongside any curb painted yellow or red by the city. (1989 Code, § 9-504)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1989 Code, § 9-505)

15-606. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1989 Code, § 9-506)

15-607. No parking zones. The provisions of Shelby County Ordinance 55 (as amended) are herewith adopted to be effective within the corporate limits of the City of Lakeland and shall be enforced by the Shelby County Sheriff's Department. Said "No parking zones" within the corporate limits will be designated and marked by the city manager/engineer in lieu of the "County Engineer" as prescribed in said Shelby County Ordinance. (1989 Code, § 9-507)

15-608. Impounded vehicles obstructing streets. The provisions of Shelby County Ordinance 56 are herewith adopted to be effective within the corporate limits of the City of Lakeland and shall be enforced by the Shelby County Sheriff's Department. (1989 Code, § 9-508)

15-609. Parking and/or storage of recreational vehicles and equipment. (1) Recreational vehicle and equipment, defined. Recreational vehicle and/or equipment shall be defined as trucks having three (3) or more axles or having a gross weight in excess of 8,000 pounds, commercial vehicles over nineteen (19) feet in length, buses (herein defined as a motor vehicle designed for carrying more than ten (10) passengers), recreational vehicles, boats (whether mounted on a trailer or not), motor homes, truck campers, travel trailers, boat trailers, tent trailers, camping trailers, motorized dwellings, fifth wheels, mobile homes, house trailers, trailers, utility trailers, semi-trailers, horse trailers, airplane gliders, off-highway motor vehicles, snowmobiles, sand buggies, dune buggies, all terrain vehicles, personal watercraft, tractors, implements of husbandry, golf carts, go-carts, or any other major recreational, commercial or agricultural vehicle or equipment.

(2) Parking and/or storage not permitted. Parking or storage of recreational vehicles and/or equipment is not permitted within a residential land use district unless there is compliance with the following:

(a) The recreational vehicle or equipment is housed within a vented garage or within a carport which is totally sight-screened from abutting properties by solid board fencing or sight-obscuring landscaping at least six feet in height; or

(b) The recreational vehicle or equipment may be located within a side or rear yard if in compliance with setback requirements applicable to accessory structures and sight-screened from abutting properties and right-of-way by solid board fencing or sight-obscuring landscaping at least six feet in height.

(c) If there is no reasonable access to a rear or side yard, recreational vehicles or equipment not exceeding four (4) feet in height may be located in the front yard provided they are not visible from the public right-of-way or adjacent properties.

(d) Recreational vehicles or equipment must be licensed (if licensing required by state authority for use) and operable.

(e) The parking surface is paved or of all-weather surface such as asphalt.

(f) Exception. Notwithstanding any other provision of this ordinance, a vehicle or piece of equipment that was a legal non-conforming use and in compliance with resolution 127 of the City of Lakeland may continue to be parked on the same property and in the driveway by the occupant of the property, provided all of the following requirements are met:

(i) There is no reasonable access to the rear or side yard;
and

(ii) There is sight-screening from all abutting properties by sight-obscuring landscaping, or if landscaping is inadequate to provide proper screening, by a fence; and

(iii) The parking surface is paved or of all-weather surface such as asphalt; and

(iv) The recreational vehicle or equipment is licensed (if licensing required by state authority for use), registered to the legal owner of the property on which it is parked, and operable; and

(v) No portion of the recreational vehicle or equipment intrudes over the curb, sidewalk and/or into the public right-of-way; and

(vi) The legal owners of all recreational vehicle or equipment purported to fall within the provisions of the exception created in paragraph (f) above shall register the recreational vehicles and/or equipment with the city no less than thirty (30) days after the effective date of this section. Failure of the recreational vehicle and/or equipment owner to register a recreational vehicle and/or piece of equipment as herein required shall constitute full, complete and permanent waiver of the exception herein granted; and

(vii) The exception herein granted shall exist only for the limited duration of the life of the recreational vehicle and/or equipment registered and only for the owner of the residential property for whom this exception was granted. If the recreational vehicle and/or equipment is destroyed by an act of God, as opposed to an intentional act and/or mere lack of continued functional use, the recreational vehicle and/or piece of equipment may be replaced by a similar such item and this exception shall continue to apply provided the recreational vehicle and/or equipment is registered as required herein.

(g) For purposes of this section, all sides of a property that abut a public right-of-way constitute a front yard.

(3) Accessory use of recreational vehicles and/or equipment while parked within residential land use district is absolutely prohibited.

(4) Parking or storage of recreational vehicles and/or equipment for compensation is not permitted in residentially zoned districts. Parking or storage of recreational vehicles and/or equipment on property where there is no unity of ownership interests in the recreational vehicle and/or equipment with a leasehold or fee interest in the subject property is absolutely prohibited. This paragraph does not apply to storage facilities provided exclusively for tenants of multifamily dwelling complexes.

(5) Commercial vehicles that exceed nineteen (19) feet in length are not permitted to be parked overnight on residential properties.

(6) This section does not apply to vehicles with camper shells or to watercraft moored over water.

(7) For purposes of this section, any new fencing or new sight-obscuring landscaping required must be installed in accordance with the City of Lakeland Fence Ordinance (Lakeland Ord. #120).

(8) Vehicles or equipment as herein defined parked on a driveway or other suitable impervious surface for the purpose of loading and unloading may remain parked or stored in the front yard for a period not to exceed 48 hours.

(9) Appeal. The board of appeals shall have the authority to grant variances from these standards in accordance with the provisions of this section. Any person who wishes to appeal a decision of the building official or seek a variance from certain conditions of this section must first request a hearing before the board of appeals. The board of appeals shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

(a) Physical or topographical conditions. The particular physical surroundings, shape, or topographic conditions of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict application of the section were carried out;

(b) Relationship to other properties within the district. The conditions upon which the petition for variance is based would not be applicable, generally, to other property within the same district;

(c) Permitted activity. The variance will not authorize activities in the residential zoning district other than those provided for in this section;

(d) Financial implications. The variance is not based solely on financial considerations;

(e) Self-creating hardship. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this section;

(f) Special privileges. Granting the variance will not confer on this applicant a special privilege that is denied by this section to other lands, structures or buildings in the same residential district;

(g) Minimum variance required. The variance is the minimum variance that will make possible reasonable use of the land.

(h) Effect on public welfare. Granting the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the subject property is located.

(i) Effect on adjacent property. The variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire,

endanger the public safety, adversely impact drainage or create erosion, or substantially diminish or impair property values within the area.

(j) Nonconforming status. The variance is not based on the presence of non-conforming use of neighboring lands, structures, or buildings in the same residential district.

(k) Prohibited uses. Under no circumstance shall the board of appeals¹ grant a variance to allow a use not permitted under the terms of this section or any use expressly or by implication prohibited by the terms of this section or other regulations of the City of Lakeland.

(l) Conditions of variance. The board of appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to reduce or minimize the injurious effect of such variation upon surrounding property including, but not limited to, requiring additional landscaping and screening measures, and better carry out the general intent of this section.

(10) Private restrictive covenants effect. This section shall not create a right to park and/or store recreational vehicles and/or equipment where otherwise prohibited by private restrictive covenants.

(11) Bona fide farming operations on agricultural zoned property excepted. The provisions of this section shall not apply to vehicles and equipment used in bona fide farming operations on agriculturally zoned property when such vehicles and equipment are parked on property zoned for agricultural uses.

(12) Severability. The provisions of this section are severable. If any provision of this section or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application.

(13) Fine for violation. Any person, firm or corporation violating any provision of this section shall be fined an amount not to exceed fifty dollars (\$50.00) for each offense, and a separate offense shall be deemed committed for each day in which each separate violation continues. (as added by Ord. #03-24, Feb. 2003, and replaced by Ord. #03-54, Dec. 2003)

¹Municipal code reference

Board of appeals: title 2, chapter 4.

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. Violation and penalty.

15-701. Issuance of traffic citations.¹ When a law enforcement 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 Shelby County General Session's 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. (1989 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. (1989 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. (1989 Code, § 9-603)

15-704. Impoundment of vehicles. Members of the Shelby County Sheriff's Department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the

¹State law reference

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

streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. 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. (1989 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 Sheriff's Department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1989 Code, § 9-605)

15-706. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows:

(1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. For parking violations, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant is issued for his arrest, his civil penalty shall be five dollars (\$5.00).

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. ROAD CUTS AND BORINGS.

CHAPTER 1

MISCELLANEOUS

SECTION

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

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1989 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1989 Code, § 12-102)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

Ord. #08-122 "Manual for Public Works Construction and Material Specifications" is available in the office of the city recorder.

16-103. Trees, etc., obstructing view at intersections prohibited.

It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1989 Code, § 12-103)

16-104. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1989 Code, § 12-104)

16-105. 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. (1989 Code, § 12-105)

16-106. 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. (1989 Code, § 12-106)

16-107. 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. (1989 Code, § 12-107)

16-108. Parades, etc., regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets or parks without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately.

The city manager may require a refundable deposit of one hundred fifty dollars (\$150.00) from permit applicants. Should the city find it necessary, upon recommendation of the city manager or other person designated by him, to clean and/or pick up refuse and/or litter as a result of said activity, the costs of so doing shall be deducted from said deposit and the remaining funds, if any, shall be returned to the applicant. Should such costs exceed the amount of the

deposit, the applicant will be billed and held accountable for payment of the difference. (1989 Code, § 12-108)

16-109. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1989 Code, § 12-109)

16-110. 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. (1989 Code, § 12-110)

16-111. Abutting property owners to keep sidewalks in good repair. (1) It shall be the duty of the property owners of all property within the City of Lakeland to keep the sidewalks abutting their property in good repair. The Code Enforcement Department of the City of Lakeland, when it determines that a portion of all of a sidewalk or driveway apron or inlet is in need of repair as authorized by the board of commissioners, may on its own motion, order the same to be done.

(2) The order of the Board of Commissioners of the City of Lakeland by resolution duly adopted, direct the Building Official of the City of Lakeland or his delegates to serve notice in writing upon the owner of the property abutting the improvement to make such repairs as requested within ninety (90) days from the date of notification. Such repair to conform to all standards currently adopted and enforced through the subdivision regulations of the City of Lakeland and the building codes and other related technical codes.

(3) The Building Official of the City of Lakeland shall report to the public works department shall thereupon, request the repair to be done either by it's crews or by contract. All repair costs are to include but not necessarily be limited to the following:

(a) Construction cost including removal and disposal, temporary repairs and barricading, materials and labor cost.

(b) Administrative cost of \$100.00 or 15% which ever is greater.

(4) The cost of any improvements required by the board of commissioners shall be assessed against the owner or owners of the abutting property and where such cost has not been paid within thirty (30) days of notice by registered mail the public works department shall certify to the City of Lakeland said assessment for filing against the property.

(5) **Right of appeal.** The Board of Commissioners of the City of Lakeland shall appoint the board of appeals to hear and determine protest, appeals, or hardship cases. The board of appeals shall have the power to wave administrative costs in the event a hardship is proven.

(6) The building official shall provide to the City of Lakeland a record of damaged walks and inlets as they are inspected. If sidewalks are not repaired in a timely manner notice shall be filed on the tax records for the property and recorded at the Shelby County Register Office as a lien on the deed and will provide a notification of such to all parties requesting tax data during the sale or transfer of the property.

(7) The building official shall, upon adoption of this ordinance, provide public notification for a minimum of two (2) days in a publicly circulated newspaper, advising all real estate agents and the general public that the ordinance has been amended and that the sidewalks and drive inlets of each house shall be inspected and repaired, if necessary, so as not to create an unexpected problem at closing.

(8) When a sidewalk section must be replaced that is in the location where a handicap ramp is required the curb shall be removed and the ramp installed according to the subdivision specifications and design provided by the code enforcement department. (Ord. #98-06, June 1998)

CHAPTER 2

ROAD CUTS AND BORINGS

SECTION

- 16-301. Definitions.
- 16-302. Permit required.
- 16-303. Application.
- 16-304. Fee.
- 16-305. Bond.
- 16-306. Insurance.
- 16-307. Protection of existing improvements.
- 16-308. Performance of work.
- 16-309. Routing traffic and street closure.
- 16-320. Time limitations.

16-201. Definitions. For purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given in this section:

(1) "Applicant" means any person making written application to the city engineer for road cut permit hereunder.

(2) "Person" means any individual person, partnership, corporation, association, governmental corporation, estate, trust, or two (2) or more individual persons having a joint or common interest.

(3) "Settlement" means any variation of the finished street surface from the testing edge of a ten foot (10') straight edge between any two (2) contact points with the surface.

(4) "Street" means that portion of an easement of ground designated and dedicated to the public to accommodate a thoroughfare, avenue, road, highway, boulevard, parkway, drive, circle, court, lane, or alley within the city. (as added by Ord. #08-123, Nov. 2008)

16-202. Permit required. It shall be unlawful for any person to dig up, break, excavate, bore, tunnel, undermine, or in any manner, break up any street or to make or cause to be made any excavation in or under the surface of any street or in any street right-of-way without having first obtained a permit as herein required and without complying with the provisions of this section. 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 permit when emergency circumstances demand the work be done immediately, and a permit cannot reasonably and practically be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the City of Lakeland is open for business, and the permit

shall be retroactive to the day when the work had begun. Road cut permits are not required for the following types of work:

- (1) Removal and replacement of concrete curb, gutter, sidewalk, or curb cut;
- (2) Geotechnical work associated with city-funded street, water or sewer improvements;
- (3) Installation of electrical, sewer and/or gas underground utilities in conjunction with building, mechanical, plumbing or electrical permits for buildings when performing the excavation work on private property;
- (4) Normal street maintenance work being performed by the public works department. (as added by Ord. #08-123, Nov. 2008)

16-203. Application. Applications for such permits shall be submitted to the city engineer three (3) weeks before the work is to begin. The application packet shall consist of a completed road cut permit application, any required construction drawings, a traffic control plan and a time schedule for the completion of the work. The following standards shall be used to review the application and to inspect subsequent construction:

- (1) All proposed construction shall conform to the standard specifications adopted by the city;
- (2) The work shall be completed in a reasonable time as specified in the time schedule;
- (3) Barricades, flagmen, guards, fences, signage and other devices necessary to provide for public safety shall be provided and maintained at all times; and
- (4) The applicant shall repair all latent defects in construction for a period of one (1) year after final completion of the work. (as added by Ord. #08-123, Nov. 2008)

16-204. Fee. The fee for such permits shall be in accordance with the City of Lakeland fee schedule. (as added by Ord. #08-123, Nov. 2008)

16-205. Bond. Before any person shall do any work within the city limits as permitted by this chapter, a five thousand dollar (\$5,000.00) corporate surety bond or an irrevocable letter of credit in the amount of five thousand dollars (\$5,000.00) or a certified check or cash deposit in an amount equal to the estimated construction charges, whichever is greater, must be filed in the city engineer's office to guarantee the faithful performance of the provisions set forth in this chapter. (as added by Ord. #08-123, Nov. 2008)

16-206. Insurance. The applicant shall file a certificate of insurance indicating that he/she is insured against claims for property damage as well as claims for personal injury which may arise out of the work, whether such performance be done by himself/herself, his/her subcontractor or anyone directly

or indirectly employed by him/her. The 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 insurance shall not be less than one hundred thousand dollars (\$ 100,000.00) for each person and three hundred thousand dollars (\$300,000.00) for each accident and for property damages not less than twenty-five thousand dollars (\$25,000.00) for anyone accident and a seventy-five thousand dollar (\$75,000.00) aggregate. (as added by Ord. #08-123, Nov. 2008)

16-207. Protection of existing improvements. The applicant shall be responsible for the protection, repair or replacement of all improvements which exist within the limits of the construction area. For the purposes of this section, the term "improvements" means and includes, but is not limited to, the following: water lines, sanitary and storm sewer lines, street lighting, traffic signal systems, traffic signs, topsoil, sod, trees, public utility lines and systems, and street improvements including subgrade, base, pavement or other surfacing, curbs, gutters, medians, sidewalks, and all of the various appurtenances of these improvements. Where any piece of equipment is used, adequate provisions shall be employed to assure that those portions of the street surface which are not to be removed will not be damaged. This shall be accomplished with the use of protective planking, pads or other methods meeting the approval of the city engineer. In the event any portion of the street is damaged as a result of the applicant's operations, the applicant shall be responsible for the repair or replacement thereof in accordance with the directions of the city engineer. (as added by Ord. #08-123, Nov. 2008)

16-208. Performance of work. (1) All work performed and materials used pursuant to the issuance of a road cut permit shall be in accordance with the City of Lakeland Manual for Public Works Construction and Materials Specifications.

(2) Where trench structure excavation requires the removal of curb gutter, concrete sidewalks, or asphaltic or concrete pavement by means of backhoes, graders or loaders, the asphalt or concrete shall be cut in a straight line parallel to the edge of the excavation by the use of a spade bitted air hammer, concrete saw, or similar approved equipment, to obtain a straight vertical edge before any excavating has begun.

(3) When trench excavation is performed by a trencher, asphalt pavement need not be cut prior to excavating operations. However, should trenching operations begin to pull, lift and/or tear existing asphalt pavement, the trenching operation shall be discontinued until the asphalt is cut parallel to the edge of the excavation. The city engineer or his/her designee shall retain sole authority to determine whether the asphalt shall be cut prior to any excavating. The minimum width of pavement removal for utilities greater than six feet (6') in depth shall not be less than eight feet (8'), unless otherwise approved by the

city engineer. All necessary corners shall be cut at not more than a forty-five degree (45°) angle to the trench excavation.

(4) All trenches and bore pits shall be backfilled and compacted to a minimum ninety-five percent (95%) of maximum density. All disturbed areas shall be returned to their original state.

(5) Upon completion of trenching and backfilling, applicant shall cut and remove both edges of the asphalt or concrete pavement, one foot (1') wider than the edge of the excavation. The cutting method shall be similar to that previously described.

(6) Rotomilling may be substituted instead of trimming asphalt or concrete pavement as outlined in subsection (3) above. This work shall include rotomilling both trench edges twelve inches wide to a depth no less than one and one-half inches (1 1/2"). Rotomilling of trench edges shall not be considered an approved option if the trench excavation material is of a noncohesive property and undermines any edge of the existing asphalt pavement.

(7) Upon completion of the work, all surplus construction materials and debris shall be removed, leaving the entire site free, clean, and in a neat condition.

(8) The applicant or his agent shall be responsible for the removal and replacement of the concrete curb, gutter, sidewalk, and pavement, and such shall be made within seven (7) working days after backfill is completed, weather permitting.

(9) All excavation, backfilling and resurfacing work shall be performed by the applicant or his agent. Upon completion of the work, the applicant or his agent shall give immediate notice to the city engineer that such work has been completed.

(10) The applicant shall assume the responsibility for any damage to underground facilities caused by the trenching, backfilling, boring, resurfacing, or any other activities of the work.

(11) All topsoil and sod removed by the contractor shall be replaced.

(12) When making excavations, the various materials excavated shall be piled separately. All concrete and bituminous materials, any soils which cannot be properly compacted, and all other deleterious materials shall be removed from the construction site and properly disposed of in accordance with applicable laws.

(13) All materials used for backfilling shall be compactable so as to meet the minimum density and moisture requirements spelled out in the city's construction standards. Backfill material may contain coarse materials up to six inches in diameter, but shall be free from large pieces of rock, frozen material, concrete, roots, stumps, tin cans, rubbish, and other similar articles whose presence in the backfill would, in the opinion of the city engineer or his/her designee, cause settlement of the trench or damage to the installed improvement. Material shall have a maximum plasticity index of six (6) and not exhibit pumping characteristics when proof rolled.

(14) As a condition of the permit, the applicant shall guarantee his work for a period of one (1) year from the date of final completion of the work. If settlement equal to or greater than one-half inch (1/2") or pavement separation equal to or greater than one-quarter inch (1/4") occurs at the site of the excavation, or immediately adjacent thereto, at any time within one (1) year from the date of final completion of the original restoration, the applicant shall be responsible for repairing such settled or separated areas in accordance with the directions of the city engineer. In addition, the applicant shall be responsible for reimbursing the city for any expenses incurred in the placement of warning devices and barricades for the protection of traffic due to such settlement. (as added by Ord. #08-123, Nov. 2008)

16-209. Routing traffic and street closure. The applicant or his agent shall take appropriate measures to assure that, during the performance of the excavation work, traffic conditions shall be maintained, as nearly normal as practicable, at all times. A traffic control plan shall be submitted with the permit application and shall include a sketch showing traffic routing, placement and type of traffic control devices to be used, a statement of the reason for the work, and the time during which the work is to be performed. The applicant or his agent shall route and control traffic, including his own vehicles, as per the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the Federal Highway Administration. Excavations which traverse a street shall be limited to one-half (1/2) the width of the street at anyone time, unless an emergency situation exists which requires that the entire width of the street be excavated. The city engineer may permit the closing of streets to all traffic for a period of time prescribed by him if, in his opinion, it is necessary. (as added by Ord. #08-123, Nov. 2008)

16-210. Time limitations. All work covered under this chapter shall be accomplished expeditiously until completion, in order to avoid unnecessary inconvenience to traffic, to pedestrians, and for the protection of other public interests. The applicant shall state, in his application for permit, the time which he estimates will be required to complete the work. Upon review of the application, the city engineer shall have the right to amend the time requested and issue the permit so as to allow the minimum amount of time which he determines will reasonably be required for such work. The time allowed for completion shall be extended as necessary if it is found that it is not possible to complete the work within the time allowed. In the event that the work is not being accomplished expeditiously in accordance with the time period set forth in the permit, or if the work on an excavation has ceased or is abandoned without due cause, the city engineer may, after ten (10) working days from date of receipt, give written notice to the holder of the permit of the city's intention to do so, have city forces correct the work, backfill the excavation, and effect all restoration as required by this chapter. In the event settlement of an excavation

occurs within one (1) year of the date of final restoration and the applicant is notified of such settlement or pavement separation, he shall accomplish the required restoration or repair within the time limit specified hereunder. Thereafter, if the work has not been accomplished, the city engineer may have city forces accomplish the work required. The entire cost of such work, including any materials used therefore, shall be paid to the city by the applicant of the permit upon demand. If payment is not made within thirty (30) days of the demand, no additional permits shall be issued to the applicant until payment has been made by the applicant or by his bonding company. In addition, the city may proceed to collect any of the costs due and owing in any manner allowed by law. (as added by Ord. #08-123, Nov. 2008)

TITLE 17**REFUSE AND TRASH DISPOSAL¹****CHAPTER****1. MUNICIPAL SOLID WASTE MANAGEMENT.****CHAPTER 1****MUNICIPAL SOLID WASTE MANAGEMENT****SECTION**

- 17-101. Definitions.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Exclusive city functions.
- 17-107. Exceptions.
- 17-108. Collection.
- 17-109. Collection vehicles.
- 17-110. Disposal.
- 17-111. Landfills.
- 17-112. Mandatory pickup.
- 17-113. Violations.

17-101. Definitions. As used in this chapter, these terms are defined as follows unless otherwise indicated:

(1) "Bags." Plastic sacks designed to store refuse or recyclables with sufficient wall strength to maintain physical integrity when lifted by top that may possibly be utilized for solid waste and recyclable materials pick up.

(2) "Bulky waste." Stoves, refrigerators, water tanks, washing machines, furniture and other waste materials other than construction debris, dead animals, hazardous waste or stable matter with weights or volumes greater than those allowed for containers.

(3) "Bundle." Tree, shrub and brush trimmings and magazines securely tied together forming an easily handled package not exceeding four (4) feet in length, or 75 pounds in weight.

(4) "City." City of Lakeland, Tennessee.

¹Municipal code reference

Property maintenance regulations: title 13.

(5) "Commercial solid waste." All garbage and rubbish generated by a producer at any commercial establishment, including any private, public or non-profit entity.

(6) "Commodity." Material that can be sold in a spot or future market for processing and use or reuse. Each commodity shall retain its own identity and be kept separate.

(7) "Commodity buyer." A buyer or processor of recyclable materials delivered by city or contractor.

(8) "Construction debris." Waste building materials resulting from construction, remodeling, repair or demolition operations.

(9) "Containers, residential." (a) Twenty (20) to ninety-six (96) gallon "roll-out" or "carry-out", receptacles constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting and having a tight fitting lid capable of preventing entrance into the container by rodents and insects.

(b) An eighteen (18) gallon receptacle designed for the purpose of curbside collection of recyclable materials, constructed of plastic or fiberglass that has been accepted by the city for curbside recycling.

(c) Bags as defined in (1) above.

(10) "Containers, commercial." "Dumpster" type or "Roll-on" type container of sufficient capacity for garbage, refuse or waste pick-up (except recyclables) generated from commercial establishments, private clubs and public or non-profit entities.

(11) "Contractor." The person, corporation or partnership performing solid waste collection, disposal and materials recycling under contract with the city.

(12) "Dead animals." Animals or portions thereof equal to or greater than ten (10) pounds in weight that have expired from any cause, except those slaughtered or killed for human use or consumption.

(13) "Disposal site." A refuse depository including but not limited to sanitary landfills, transfer stations, incinerators, and waste processing/separation centers and/or recycling sites, licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals to receive refuse, dead animals or recyclable materials for processing or final disposal.

(14) "Garbage." Any and all dead animals of less than ten (10) pounds in weight, except those slaughtered for human consumption; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter and all putrescible or easily decomposable animal or vegetable waste matter which is likely to attract flies or rodents; except (in all cases) any matter included in the definition of bulky

waste, construction debris, dead animals, hazardous waste, rubbish or stable matter.

(15) "Hazardous waste." Waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law, or waste, in any amount, which is regulated under federal or state law. This shall also include motor oil, gasoline, paint and paint cans.

(16) "Household hazardous waste." Solid wastes discarded from homes or similar sources listed in 40 CFR 261.4(b)(1) that are either hazardous wastes as listed by EPA in 40 CFR, Parts 261.33 (e) or (f), or wastes that exhibit any of the following characteristics as defined in 40 CFR Parts 261.21 through 261.24; ignitability, corrosivity, reactivity, and TCLP toxicity.

(17) "Household waste." Any waste material, including garbage, trash and refuse, and yard waste derived from households. Households include single and multiple residences, campgrounds, picnic grounds and day-use recreation areas.

(18) "Landfill." Any land used for the disposal of municipal solid waste or baled waste by filling or covering.

(19) "Municipal solid waste." Any garbage, refuse, industrial lunchroom or office waste, household waste, household hazardous waste, yard waste, and any other material resulting from the operation of residential, municipal, commercial, or institutional establishments and from community activities which are required to be disposed of in a Class I landfill, as defined in regulations adopted pursuant to Tennessee Code Annotated, title 68, chapter 31; provided, however, that "municipal solid waste" does not include the following:

(a) Radioactive waste.

(b) Hazardous waste as defined in Tennessee Code Annotated, § 68-46-104.

(c) Infectious waste.

(d) Materials that are being transported to a facility for reprocessing or, reuse, but provided, further, that reprocessing or reuse does not include incineration or placement in a landfill.

(e) Industrial waste which may include office, domestic or cafeteria waste, managed in a privately owned solid waste disposal system or resource recovery facility if such waste is generated solely by the owner of the solid waste disposal system or resource recovery facility.

(20) "Producer." An occupant of a residential or commercial unit who generates garbage waste or municipal solid waste.

(21) "Recovered materials." Those materials which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation processing.

(22) "Recyclable materials." Those materials which are capable of being reused or returned to use in the form of raw materials or products, whether or not such materials have been diverted or removed from the solid waste stream.

(23) "Recycling." Any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

(24) "Refuse." Residential, commercial, and bulky waste, construction debris and stable matter generated at a residential or commercial unit unless otherwise indicated.

(25) "Residential solid waste." All garbage, refuse and rubbish generated by a producer at a residential unit.

(26) "Residential unit." (a) A dwelling within the corporate limits of the city occupied by a person or group of persons comprised of not more than one family. A residential unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto.

(b) Apartments of condominium dwellings, whether of single or multi-level construction, consisting of four or less contiguous or single-family dwelling units, shall be treated as a residential unit, except that each single-family dwelling within any such residential unit shall be billed separately as a residential unit.

(c) Mobile home parks, KOA cabins and RV sites shall be treated as individual residential units for recyclable material pick up except that these units shall be commercially billed as one (1) unit to the facility owner/operator as a commercial producer by that entity providing garbage, refuse and rubbish collection.

(27) "Rubbish." All waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded materials, used and discarded clothing, used and discarded shoes and books, combustible waste pulp and other products such as are used for packaging or wrapping, crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of bulky waste, construction debris, dead animals, garbage, hazardous waste or stable matter.

(28) "Solid waste." As defined in Tennessee Code Annotated, § 68-31-103(7), but does not include recovered materials.

(29) "Solid waste management." The storage, collection, transfer, transportation, treatment, utilization, processing, or disposal of solid waste or any combination of such activities.

(30) "Solid waste management facility." Any facility the primary purpose of which is the storage, collection, transfer, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste. A recovered materials processing facility is not a solid waste management facility.

(31) "Solid waste stream." The system through which solid waste and recoverable materials moves from the point of discard to recovery or disposal.

(32) "Stable matter." All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

(33) "Tire." The continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.

(34) "Used oil." Any oil which has been refined from crude or synthetic, or recovered oil and, as a result of use, storage or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and may be economically recyclable or may be burned as fuel.

(35) "Waste tire." A tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

(36) "Yard waste." Vegetative matter resulting from landscaping, lawn maintenance, and land clearing operations other than mining, agricultural, and forestry operations. (1989 Code, § 8-201, modified)

17-102. Premises to be kept clean. All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulation of solid waste, except when stored as provided in this chapter. (1989 Code, § 8-202)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premise within this municipality where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. Said containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than ninety-six (96) gallons, except that this maximum capacity shall not apply to larger containers which the city or contractor handles mechanically. Furthermore, except for containers which are handled mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. Recyclable materials containers and/or bags shall be provided to each residential unit for their use in which recyclable materials are to be accumulated for weekly curb/street side pick-up as shall be scheduled by the city or contractor. Residents shall be responsible for security of these containers and may be billed for any loss thereof. No refuse shall be placed in a refuse or recyclable materials container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. Items of refuse such as, but not limited to, cardboard and pasteboard boxes and cartons shall be cut and broken down or collapsed so that they will lay flat in a collapsed condition so as to conserve space. (1989 Code, § 8-203)

17-104. Location of containers. Where alleys are used by the city's refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city's refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the city for the collection of refuse therefrom. As soon as practicable after such containers have been emptied (which in no event shall be longer than twelve (12) hours) they shall be removed by the owner to within, or to the rear of his premises and away from the curb/street line until the next scheduled time for collection. On any premises for which a charge is paid for non-curb pickups, containers shall be placed in a location mutually agreeable to the customer and the city or contractor. Furthermore, all commercial sites shall provide enclosed/screened positions for dumpsters and/or roll-on-off containers to preclude visibility from the fronting or adjacent streets. (1989 Code, § 8-204)

17-105. Disturbing containers. No unauthorized person shall, uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1989 Code, § 8-205)

17-106. Exclusive city function. Except as otherwise herein provided, only the city or its designated contractors shall engage in the business of collecting, removing, or disposing of residential municipal solid waste or recyclable materials within the corporate limits. The city may provide such service either with its own resources or by contractors or by both. Commercial entities shall individually provide for the removal of solid waste and recyclable materials. (1989 Code, § 8-206)

17-107. Exceptions. Nothing in this chapter shall prevent:

(1) Any refuse producer from collecting, removing and disposing of his own refuse, provided he does so in such manner as not to create a nuisance and provided further that he pays all applicable disposal fees.

(2) Any licensed junk dealer from collecting refuse recognized as having a salvage value, provided such dealer may collect such salvageable material only from premises where he has a written invitation from the occupant.

(3) Any refuse producer or owner from selling or giving salvageable materials to licensed junk dealers for collection, removal and disposal.

Those residents availing themselves of the foregoing provisions shall not be exempted from payment of the prescribed fees set by the board of commissioners pursuant to the mandated requirements of § 17-113 for solid

waste and recyclable materials collection and disposal services. (1989 Code, § 8-207)

17-108. Collection. All solid waste and recyclable materials accumulation within the corporate limits shall be collected, conveyed, and disposed of under the supervision of the city manager or his designate. Collections shall be made regularly in accordance with an announced schedule.

Refuse containers, recycle bins and other items to be picked up shall not be in place earlier than dusk the day prior to the scheduled collection day, and must be removed prior to dusk on the scheduled collection day. (1989 Code, § 8-208)

17-109. Collection vehicles. The collection of solid waste and recyclable materials 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 collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of residue over the streets or alleys. (1989 Code, § 8-209)

17-110. Disposal. The disposal of solid waste and recyclable materials as defined by § 17-101 above in any quantity by any person in any place, public or private, other than at duly authorized site or sites designated for refuse by the board of commissioners is expressly prohibited. It shall likewise be unlawful for any person in any place, public or private, to dispose of those excluded materials listed in § 17-101 above within the corporate limits of the City of Lakeland without prior approval of the board of commissioners as well as the property owners concerned. If such action is approved, applicants must petition Memphis and Shelby County Health Department, Pollution Control Division to obtain proper landfill permits and regulations.

(1) **Disposal in city prohibited; exception.** It shall be unlawful for any person to dump, burn, bury or destroy or otherwise dispose of refuse within the city except that rubbish which may be permitted to be burned in accordance with the provisions of the Shelby County Fire Protection Code.

(2) **Transportation into the city by nonresidents for deposit in city prohibited.** No person who is not a resident of the city shall transport into or cause to be transported into the city any refuse for the purpose of depositing such refuse upon any ground, street or place within the city.

(3) **Deposit on private property generally.**

(a) The owner or his agent or the occupant of any premises within the city shall be responsible for the sanitary condition of the premises occupied by him and it shall be unlawful for any person to place, deposit or allow to be placed or deposited on his premises any refuse except as designated by the terms of this chapter.

(b) No person shall throw or deposit refuse on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized receptacles for collection in such a manner that refuse will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any other private property.

(4) Deposit on vacant lot. No person shall throw or deposit refuse on any open or vacant private property within the city, whether owned by such person or not.

(5) Deposit on public property. It shall be unlawful for any person to throw, sweep, place or otherwise deposit any refuse on or in any street, sidewalk, gutter, park or other public property within the city.

(6) Deposit in fountains, lakes, etc. No person shall throw or deposit refuse in any fountain, pond, lake, stream, or any other body of water in a park or elsewhere within the city.

(7) Method of depositing in receptacles. Persons placing refuse in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(8) Unlawful use of city-owned receptacles. It shall be unlawful for the owner, manager or any employee of a business establishment to deposit any refuse from such establishment in any city-owned receptacle placed on a street, sidewalk or other public place.

(9) Unlawful scavenging or removal of refuse or recyclable materials. It shall be unlawful for any person to scavenge or salvage refuse or recyclable materials from any refuse or recyclable materials container. (1989 Code, § 8-210, modified)

17-111. Landfills. Landfills within the corporate limits of the City of Lakeland are prohibited. (1989 Code, § 8-211, modified)

17-112. Mandatory pick-up. A mandatory residential solid waste and recyclable materials pick-up is hereby established to commence on or about October 1, 1991. All residents in the corporate limits of the City of Lakeland shall comply with the city pick-up and pay a service fee as adopted by resolution of the board of commissioners. This resolution shall outline all programs provided. Such fees shall be billed to residents in the manner prescribed in said resolution. Said services fee and corresponding programs or special case considerations may be adjusted at any time by a majority resolution vote of the board of commissioners. Commercial establishments shall individually provide for the removal of solid waste and recyclable materials. (1989 Code, § 8-212, modified)

17-113. Violations. Any person violating or failing to comply with any provision of this chapter or any lawful regulation of the city manager shall be subject to a penalty of not more than fifty dollars (\$50.00) for each offense and each day such violation continues shall be deemed to be a separate offense.

(1) Notice and correction of violations. Whenever the city manager or designate determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, he shall give notice of such alleged violation to the person or persons responsible therefor. Such notice shall:

- (a) Be put into writing.
- (b) Include a statement of the reasons why it is being issued.
- (c) Be served upon the owner or his agent or the occupant of the premises where the alleged violation takes place.
- (d) Allow a reasonable time for the performance of any act required by such notice.

(2) The notice provided for in subsection (1) may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter. If such corrective action is not taken, the city manager may correct the same and, upon completion of the work, shall determine the reasonable cost thereof and bill the owner or tenant therefor.

(3) Whenever the city manager finds that a situation exists which endangers the public health he may, as an emergency measure, correct the same without any notice to the owner or occupant of the premises and, upon completion of the work, he shall determine the reasonable cost thereof and bill the owner or tenant therefor. This charge shall constitute a lien upon the property where the corrective measure is taken and such lien shall be enforced as are other tax liens of the city.

(4) The provisions of this section are not exclusive but cumulative and shall be in addition to the penalties imposed for a violation of this chapter. The notice provided for herein shall not be a prerequisite to prosecution for violating any provision of this chapter. (1989 Code, § 8-213)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. SEWAGE AND HUMAN EXCRETA DISPOSAL.
2. SEWER.
3. WATER.
4. SEWER USE AND WASTEWATER TREATMENT.
5. SEWERAGE COMMISSION.
6. STORMWATER MANAGEMENT AND POLLUTION CONTROL PLAN.
7. WASTEWATER COLLECTION SYSTEM OVERSIZING ALLOWANCES.
8. STORMWATER MANAGEMENT PROGRAM.
9. GREASE MANAGEMENT FOR FOOD SERVICE ESTABLISHMENTS.

CHAPTER 1

SEWAGE AND HUMAN EXCRETA DISPOSAL

SECTION

- 18-101. Definitions.
- 18-102. Places required to have sanitary disposal methods.
- 18-103. When a connection to the private or public sewer is required.
- 18-104. When a septic tank shall be used.
- 18-105. Registration and records of septic tank cleaners, etc.
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- 18-107. Approval and permit required for septic tanks, privies, etc.
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- 18-111. Discharge into watercourses restricted.
- 18-112. Pollution of ground water prohibited.
- 18-113. Enforcement of chapter.
- 18-114. Carnivals, circuses, etc.
- 18-115. Violations.

18-101. Definitions. The following definitions shall apply in the interpretation of this chapter:

¹Municipal code references

Building, utility and housing codes: title 12.

Fee schedule; sewer fees, etc.: appendix A.

Refuse disposal: title 17.

(1) "Accessible sewer." A private or public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred (200) feet of any boundary of said property measured along the shortest available right-of-way.

(2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(3) "Human excreta." The bowel and kidney discharges of human beings.

(4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

(5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four (4) feet should be provided with a minimum depth of air space above the liquid of one (1) foot. The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five (5) feet. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented.

(7) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently.

(9) "Sewer service line." "Sewer service line means a pipe intended to carry sewage flow that connects to the public sewer main and extends to the house, buildings, structures or other properties served. A sewer service line may be inside the public right-of-way or in an easement prior to extension onto private property. (1989 Code, § 8-301, as amended by Ord. #08-115, April 2008)

18-102. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1989 Code, § 8-302)

18-103. When a connection to the private or public sewer is required. Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the private or public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1989 Code, § 8-303)

18-104. When a septic tank shall be used. Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1989 Code, § 8-304)

18-105. Registration and records of septic tank cleaners, etc. Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1989 Code, § 8-305)

18-106. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under § 18-102 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1989 Code, § 8-306)

18-107. Approval and permit required for septic tanks, privies, etc. Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1989 Code, § 8-307)

18-108. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-102, or the agent of the owner to provide such facilities. (1989 Code, § 8-308)

18-109. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1989 Code, § 8-309)

18-110. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1989 Code, § 8-310)

18-111. Discharge into watercourses restricted. No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1989 Code, § 8-311)

18-112. Pollution of ground water prohibited. No sewage effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1989 Code, § 8-312)

18-113. Enforcement of chapter. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace, and failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the number of days herein provided within which to make permanent correction. (1989 Code, § 8-313)

18-114. Carnivals, circuses, etc. Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups

of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1989 Code, § 8-314)

18-115. Violations. Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1989 Code, § 8-315)

CHAPTER 2

SEWER¹

SECTION

- 18-201. Application and scope.
- 18-202. Definitions.
- 18-203. Use of system regulated.
- 18-204. Permit and supervision required for connecting to system.
- 18-205. Connection and privilege charges.
- 18-206. Installation, maintenance responsibility, and associated fees for sewer service lines.
- 18-207. Sewer service charges.
- 18-208. Extension policies.
- 18-209. Water service and provisions to apply to sewer service.
- 18-210. Sewer system expansion or improvement fee.
- 18-211. City of Memphis sewer regulations apply.
- 18-212. Developers must submit sewer plans to sewerage commission.

18-201. Application and scope. The provisions of this chapter are a part of all contracts for receiving sewer services from the city and shall apply whether the service is based upon contract, agreement, formal application, implied contract, or otherwise. (1989 Code, § 13-401)

18-202. Definitions. The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

(1) "Administrative ordinance or resolution" shall mean such ordinance or resolution as approved by majority vote of the board of commissioners.

(2) "Customer" means any person who receives sewer service from the city under either an express or implied contract.

(3) "Dwelling" means any single structure, with auxiliary buildings, occupied by one (1) or more persons or households for residential purposes.

(4) "Household" means any person or persons living as a household or family group.

¹Municipal code references

Building, utility, etc. codes: title 12.

Property maintenance regulations: title 13.

State law reference

Tennessee Code Annotated, §§ 7-35-201(1), et seq., 7-35-401, et seq., and 68-13-101, et seq.

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

(6) "Service line" shall consist of the pipe line extending from any sewer main of the city to private property. (1989 Code, § 13-402)

18-203. Use of system regulated. All persons using, desiring, or required to use the public sanitary sewer system shall comply with the provisions of this chapter and with such written rules and regulations as may be prescribed by the city when such rules and regulations have been approved by the board of commissioners. (1989 Code, § 13-403)

18-204. Permit and supervision required for connecting to system. No premises shall be connected to the public sanitary system without a permit from the city. Also, all connections to the system must be made under the direct supervision of the city and/or agent designated by the city. (1989 Code, § 13-404)

18-205. Connection and privilege charges. Sewer connection privilege charges for connections to publicly owned sewers or otherwise when ultimately interconnected to a publicly owned sewer within or outside the corporate boundaries of the city shall be as the city may, from time to time, adopt by appropriate administrative ordinance or resolution. (1989 Code, § 13-405)

18-206. Installation, maintenance responsibility, and associated fees for sewer service lines. (1) Each lot shall have a separate sewer service line serving it and no other lot shall be provided service from the sewer service line.

(2) Property owners shall be responsible for the installation of a new sewer service line from the public sewer main to the house, building, or structure if they have not been installed by others. The city does not guarantee that a sewer service line is extended into a lot. If there is no sewer service connection into the lot or parcel of land, the city and/or designated agent by the city may install, at the cost of the customer and as covered by fees set forth by ordinance, a sewer service saddle on the sewer main. The property owner must then install the sewer service line from the saddle on the public sewer main to the property being served by the sewer service. All trenching, excavation, backfilling, compaction, and surface restoration such as pavement replacement etc., shall be performed by and at the cost and expense of the property owner.

(3) The owner shall maintain the existing sewer service line from the public sewer main to the house, building or structure being served. Maintenance covers all work and costs associated with routine and emergency services to clean the sewer service line.

(a) If a residential property owner experiences sewer service interruption as a result of a sewer service line blockage or breakage and has demonstrated a good faith effort to remedy the problem, the city will make any necessary repair on the portion of the sewer service line inside the public right-of-way or easement. A good faith effort shall constitute current written documentation that the owner has hired a plumber to clear or repair the breakage of the sewer service line. The owner shall, before the city makes such repairs, provide a clear and open access to the sewer service line at the right-of-way or easement boundary. Upon completion of making repairs to the sewer service line blockage or breakage, a new sewer service cleanout shall be installed as directed by the city engineer at the right of way line and at the expense of the property owner. Residential property owners will not be billed for any repair work performed by the city between the public sewer main and the right-of-way or easement boundary, except for the material cost of the sewer cleanout. All costs associated with a plumber or others by the property owner to clear a blocked or broken sewer service line shall be the responsibility of the property owner. Commercial property owners shall pay all costs and repairs to a blocked or broken sewer service line from the public sewer main to the structure. This includes the cost of materials and labor to install a sewer service cleanout.

(4) The city does not undertake or agree to furnish or supply continuous uninterrupted sewer service to its property owners and shall not be liable for any deficiency or failure in the receiving of wastewater from property owners for the purpose of making repairs or connections or from any other cause whatsoever. The city specifically reserves the right to assert any and all rights, immunities, and defenses it may have pursuant to the Tennessee Governmental Claims Act.

(5) Sewer system backwater valves. If the city determines that a property owner has the potential to have a sewer system backup, a backwater valve shall be installed by the property owner at owner's cost. Sewer system backwater valves shall be installed in accordance to applicable plumbing code. (1989 Code, § 13-406, as amended by Ord. #08-115, April 2008)

18-207. Sewer service charges. Sewer service charges shall be collected from the person billed for water service to any premises with an accessible sanitary sewer. Water service may be discontinued for non-payment of the combined bill. Sewer service shall be furnished under such rate schedules as may, from time to time, be adopted by appropriate administrative ordinance or resolution. (1989 Code, § 13-407)

18-208. Extension policies. (1) Whenever the board of commissioners is of the opinion that it is to the best interest of the sewer system to construct

a sewer extension, such extension may be constructed upon such terms and conditions as shall be approved by a majority of the members of the commission.

(2) When a sewer extension is constructed to serve land development projects and subdivision developments, the developer shall pay all costs and expenses incurred. Said payments are not subject to refund. (1989 Code, § 13-408)

18-209. Water service and provisions to apply to sewer service.

Insofar as practical, the various policies and provisions set forth by the appropriate water system authority providing water services as outlined in chapter 1 of this title shall apply to sewer service for the following:

- (1) Obtaining service.
- (2) Application and contract for service.
- (3) Temporary service.
- (4) Multiple services through a single meter.
- (5) Billing.
- (6) Discontinuance or refusal of service.
- (7) Reconnection charge.
- (8) Access to customer's premises.
- (9) Inspections.
- (10) Customer's responsibility for system's property.
- (11) Customer's responsibility for violations.
- (12) Supply and resale of water (sewer service).
- (13) Interruption of service. (1989 Code, § 13-409)

18-210. Sewer system expansion or improvement fee. When a system extension is constructed in connection with a project or subdivision development, the city may require the developer to pay an amount not to exceed an amount equal to thirty-five (35) percent of the total cost of the sewer extension as a sewer system expansion or improvement fee. This amount may be required in addition to those charges prescribed in §§ 18-204 and 18-207. (1989 Code, § 13-410)

18-211. City of Memphis sewer regulations apply. City sewer users shall comply with all provisions of the City of Memphis ordinances pertaining to sewer use, charges, billing and practices, in accordance with Agreement dated July 7, 1969, and any other amendments thereto, by and between the City of Lakeland and the City of Memphis. It is stipulated that the Board of Commissioners, by appropriate administrative ordinance or resolution, may from time to time establish connection and privilege charges, sewer service charges, or establish rules and regulations that may be in excess of or more stringent than the requirements of the City of Memphis Ordinances. (1989 Code, § 13-411)

18-212. Developers must submit sewer plans to sewerage commission. (1) All developers of commercial and residential subdivisions within the City of Lakeland who desire to utilize and/or connect to the Lakeland Sewer System shall submit a sewer plan(s) for their respective subdivisions to the BOSC for approval. The plan shall contain the following:

- (a) Detailed drawings of all sewer out-fall lines, or
- (b) Other sewer construction, or
- (c) Design(s) of lift stations, if needed, and/or
- (d) Any other pertinent information that may be required by city staff; including the city engineer for all phases of the respective subdivision(s).

(2) The plan(s) shall contain a summary of the sewer tap fees to be paid to the Lakeland Sewer Fund by developer for all phases of the respective subdivision and shall be submitted to the BOSC.

(3) Approval of the sewer plan(s) by the BOSC must be obtained prior to submission of the sewer plans to the municipal planning commission. (Ord. #00-04, May 2000)

CHAPTER 3

WATER¹

SECTION

- 18-301. To be furnished under franchise.
- 18-302. Services provided by Memphis Light, Gas and Water Division (MLG&W).
- 18-303. Application and scope.
- 18-304. Obtaining services.
- 18-305. Memphis Light, Gas and Water Division regulations apply.

18-301. To be furnished under franchise.² Water shall be furnished to the City of Lakeland and its inhabitants under franchise granted to Shelby County Board of Public Utilities by the Board of Commissioners of the City of Lakeland, Tennessee. The rights, powers, duties, and obligations of the City of Lakeland and its inhabitants are clearly stated in the December 7, 1978 franchise agreement executed by, and which shall be binding upon, the parties concerned. (1989 Code, § 13-101)

18-302. Services provided by Memphis Light, Gas and Water Division. Routine maintenance and operations of the water system authority overseen by the Superintendent, Shelby County Board of Public Utilities is vested in Memphis Light, Gas and Water Division (MLG&W). (1989 Code, § 13-102)

18-303. Application and scope. The provisions of this chapter are a part of all contracts for receiving water service from the water systems authority to the city and shall apply whether the service is based upon contract, agreement, formal application, implied contract, or otherwise. (1989 Code, § 13-103)

18-304. Obtaining services. A formal application for either original or additional service must be made and be approved by the Water System Authority (MLG&W) before connection or meter installation orders will be issued and work performed. (1989 Code, § 13-104)

¹Municipal code reference

Building, utility, etc. codes: title 12.

²For complete details relating to the water franchise agreement, see Ordinance dated December 7, 1978, and any amendments, in the office of the city recorder.

18-305. Memphis Light, Gas and Water Division regulations apply.

The city water system authority users are to comply with all provisions of MLG&W policy and regulations pertaining to use, charges and practices in accordance with the franchise terms delineated in § 18-301 of this chapter, and any such amendments thereto, by and between the City of Lakeland and the Shelby County Board of Public Utilities. (1989 Code, § 13-105)

CHAPTER 4

SEWER USE AND WASTEWATER TREATMENT

SECTION

- 18-401. Purpose and policy.
- 18-402. Definitions.
- 18-403. Connection to public sewers.
- 18-404. Private domestic wastewater disposal.
- 18-405. Regulation of holding tank waste disposal.
- 18-406. Application for domestic wastewater discharge and industrial wastewater discharge permits.
- 18-407. Discharge regulations.
- 18-408. Industrial user monitoring, inspection reports, records access, and safety.
- 18-409. Enforcement and abatement.
- 18-410. Penalties; costs.
- 18-411. Fees and billing.
- 18-412. Validity.

18-401. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the City of Lakeland, Tennessee, wastewater treatment system. The objectives of this chapter are:

- (1) To protect the public health;
- (2) To provide problem free wastewater collection and treatment service;
- (3) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, which will cause the system discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements, or which will cause physical damage to the wastewater treatment system facilities;
- (4) To provide for full and equitable distribution of the cost of the wastewater treatment system;
- (5) To enable the City of Lakeland to comply with the provisions of the Federal Water Pollution Control Act, the General Pretreatment Regulations (40 CFR Part 403), and other applicable federal, state laws and regulations;
- (6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Lakeland 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 also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the City of Lakeland, Tennessee, and to persons outside the city who are, by contract or agreement with the city users of the municipal wastewater treatment system. Except as otherwise provided herein, the City Manager of the City of Lakeland shall administer, implement, and enforce the provisions of this chapter.

18-402. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

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

(2) "Approval authority" - The director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

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

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

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

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

(4) "Biochemical oxygen demand (BOD)" - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20 centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

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

(6) "Categorical standards" - The National Categorical Pretreatment Standards or Pretreatment Standard.

(7) "City" - The City of Lakeland or the Board of Commissioners, City of Lakeland, Tennessee.

(8) "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.

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

(10) "Control authority" - The term "control authority" shall refer to the "approval authority," defined hereinabove; or the board of commissioners if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

(11) "Customer" - means any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

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

(13) "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.

(14) "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.

(15) "Garbage" - Shall mean solid wastes generated from any domestic, commercial or industrial source.

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

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

(18) "Incompatible pollutant" - shall mean any pollutant which is not a "compatible pollutant" as defined in this section.

(19) "Indirect discharge" - The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(20) "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).

(21) "Interference" - The inhibition or disruption of the municipal wastewater processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant

to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

(22) "National categorical pretreatment standard or pretreatment standard" - Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

(23) "NPDES (National Pollution Discharge Elimination System)" - Shall mean the program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to Section 402 of the Federal Water Pollution Control Act as amended.

(24) "New source" - Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard if thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(25) "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.

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

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

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

(29) "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 as prohibited by 40 CFR Section 40.36(d).

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

(31) "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 city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City of Lakeland who are, by contract or agreement with the City of Lakeland users of the city's POTW.

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

(33) "Shall" - is mandatory; "May" - is permissive.

(34) "Slug" - Shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

(35) "State" - The State of Tennessee.

(36) "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.

(37) "Stormwater" - Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(38) "Storm sewer or storm drain" - Shall mean a pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the City of Lakeland.

(39) "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.

(40) "Superintendent" - The public works supervisor or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(41) "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.

(42) "Twenty-four (24) hour flow proportional composite sample" - A sample consisting of several sample portions collected during a 24-hour period

in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(43) "User" - Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(44) "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 POTW.

(45) "Wastewater treatment systems" - Defined the same as POTW.

(46) "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.

18-403. Connection to public sewers. (1) Requirements for proper wastewater disposal. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the City of Lakeland, any human or animal excrement, garbage, or other objectionable waste.

(b) 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 chapter.

(c) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) Except as provided in § 18-403(1)(e) 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 public sewer in accordance with the provisions of the chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the property line over public access.

(e) 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.

(f) Where a public sanitary sewer is not available under the provisions of § 18-403(1)(d) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-404 of this chapter.

(2) Physical connection 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 obtaining a written permit from the city as required by § 18-406 of this chapter.

The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the city. A connection fee shall be paid to the city at the time the application is filed.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the city to meet all requirements of this chapter. All others may be sealed to the specifications of the City of Lakeland.

(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").

Small diameter gravity sewer - Four inches (4").

Septic Tank Effluent Pump - One and one quarter inches (1¼").

Where the septic tank becomes an integral part of the collection and treatment system, the minimum size influent line shall be four inches (4") and the minimum size of septic tank shall be 1,000 gallons. Septic tanks shall be constructed of polyethylene and protected from flotation. The city shall have the right, privilege, and authority to locate, inspect, operate, and maintain

septic tanks which are an integral part of the collection and treatment system.

(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 - 1/8 inch per foot.

Two inch (2") sewers - 3/8 inch per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

(iv) Slope and alignment of all building sewers shall be neat and regular.

(v) Building sewers shall be constructed only of ductile iron pipe class 50 or above or polyvinyl chloride pipe SDR-26 for gravity sewers and SDR-26 for pressure sewers. Joints shall be rubber or neoprene "o" ring compression joints. No other joints shall be acceptable.

(vi) A cleanout shall be located five (5) feet outside of the building, one as it crosses the property line and one at each change of direction of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of six (6) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches.

(vii) Connections of building sewers to the public sewer system 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 City of Lakeland. All such connections shall be made gastight and watertight.

(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8-inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building

drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a pump and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and Water Environment Federation Manual of Practice FD-5. Any deviation from the prescribed procedures and materials must be approved by the city engineer 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, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(3) Inspection of connections. (a) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the county code enforcement or his authorized representative.

(b) The applicant for discharge shall notify the county code enforcement when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the county inspector or his representative.

(4) Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance which will include repair or replacement of the building sewer as deemed necessary by the county building department to meet specifications of the city.

18-404. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-403(1)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to 1/8-inch per foot in the building sewer but is otherwise accessible to a public sewer as provided in § 18-403, the owner shall provide a private sewage pumping station as provided in § 18-403(2)(e)(viii).

(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) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the city stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the Shelby County Health Department.

(b) Before commencement of construction of a private sewage disposal system the owner shall first obtain written permission from the City of Lakeland and the Shelby County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the City of Lakeland and the Shelby County Health Department.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the City of Lakeland and the Shelby County Health Department. They shall be allowed to inspect the work at any stage of construction and the owner shall notify the City of Lakeland and the Shelby County Health Department when the work is ready for final inspection, before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the City of Lakeland and the Shelby County Health Department.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health of the State of Tennessee, the City of Lakeland, and the Shelby County Health Department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When the public sewer becomes available, the building sewer, or the septic tank effluent line shall be connected to the public sewer within sixty (60) days of the date of availability and the private sewage disposal

system should be cleaned of sludge and if no longer used as a part of the city's treatment system, filled with suitable material.

(f) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the City of Lakeland and the Shelby County Health Department.

18-405. Regulation of holding tank waste disposal. (1) Permit. No person, firm, association or corporation shall clean out, drain, or flush any septic tank or any other type of waste water or excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the city to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the when the conditions of this chapter have been met and providing the city is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste.

(2) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the city to be set as specified in § 18-411. Any such permit granted shall be for one fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted 3-inch permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The city shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The city may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste could interfere with the operation of the POTW.

(4) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the City of Lakeland. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of Lakeland.

18-406. Application for domestic wastewater discharge and industrial wastewater discharge permits. (1) Application for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the city for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the city sewer shall not be made until the application is received and approved by the city, the building sewer is installed in accordance with § 18-401 of this chapter and an inspection has been performed by Shelby County Code Enforcement or his representative.

The receipt by the city of a prospective customer's application for service shall not obligate the city to render the service. If the service applied for cannot be supplied in accordance with this 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 contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall acquire a permit within 180 days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required to obtain a wastewater discharge permit shall complete and file with the City of Lakeland, an application on a prescribed form accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within 60 days after the effective date of this chapter, and proposed new users shall apply at least 60 days prior to connecting to or contributing to the POTW.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address, and SIC number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-407(1) and (2) discharge variations -- daily, monthly, seasonal and 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 City of Lakeland.

(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 City of Lakeland for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. 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 O&M will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established 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 § 18-407 of this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The City of Lakeland will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the city 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 city, the city shall deny the application and notify the applicant in writing of such action.

(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. Permits may contain the following:

- (i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (ii) Limits on the average and maximum rate and time of discharge or requirements and equalization;
- (iii) Requirements for installation and maintenance of inspections and sampling facilities;
- (iv) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;
- (v) Compliance schedules;
- (vi) Requirements for submission of technical reports or discharge reports;
- (vii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;
- (viii) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
- (ix) Requirements for notification of slug discharged;
- (x) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the city within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by §§ 18-406(2)(b)(ii) and (iii). The terms and conditions of the permit may be subject to modification by the city 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 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permits 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 reissuance a minimum of 180 days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(g) Revocation of permit. Any permit issued under the provisions of the 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 any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaire, permit application, permits and monitoring programs and from 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 city 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 city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless prior and adequate notification is given to the user.

18-407. Discharge regulations. (1) General discharge prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) 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 but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(c) Any wastewater having a pH less than 5.5 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 POTW.

(d) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance, hazard to life, are sufficient to prevent entry into the sewers for maintenance and repair.

(f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or 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.

(g) Any substances which will cause the POTW to violate its NPDES Permit or the receiving water quality standards.

(h) 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.

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the sewer system which exceeds 65°C (150°F) or causes the influent at the wastewater plant to exceed 40°C (104°F).

(j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

(k) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(l) Any waters containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city in compliance with applicable state or federal regulations.

(m) Any wastewater which causes a hazard to human life or creates a public nuisance.

(n) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between thirty-two (32) or one hundred fifty (150) degrees F (0 and 65°C).

(o) 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 city and the Tennessee Department of Health. Industrial cooling water or unpolluted process waters may be discharged on approval of the city and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the following set of standards (Table A - User Discharge Restrictions) unless an exception is permitted as provided in this chapter. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A - User Discharge Restrictions

Pollutant	Daily Average* Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l)
Antimony	5.0	8.0
Arsenic	1.0	1.5
Cadmium	1.0	1.5
Chromium (total)	4.0	7.0
Copper	3.0	5.0
Cyanide	1.0	2.0
Lead	1.0	1.5
Mercury	0.1	0.2
Nickel	3.0	4.5
Pesticides & Herbicides	BDL	1.0
Phenols	10.0	15.0
Selenium	1.0	1.5
Silver	1.0	1.5
Surfactants, as MBAS	25.0	50.0
Zinc	3.0	5.0

*Based on 24-hour flow proportional composite samples.

(3) Protection of treatment plant influent. The city may monitor the treatment works influent for each parameter in the following table. (Table B - 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 POTW reaches or exceeds the levels established by this table, the city 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 pre-treatment levels for these parameters. The city shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

Table B - Plant Protection Criteria

Parameter	Maximum Concentration mg/1 (24 Hour Flow) Proportional Composite Sample	Maximum Instantaneous Concentration (mg/1) Grab Sample
Aluminum		
dissolved (AL)	3.00	6.0
Antimony (Sb)	0.50	1.0
Arsenic (As)	0.06	0.12
Barium (Ba)	2.50	5.0
Boron	0.4	0.8
Cadmium (Cd)	0.004	0.008
Chromium Hex	0.06	0.12
Cobalt	0.03	0.06
Cooper (Cu)	0.16	0.32
Cyanide (CN)	0.03	0.06
Fluoride (F)	0.6	1.2
Iron (Fe)	3.0	6.0
Lead (Pb)	0.10	0.2
Manganese (Mn)	0.1	0.2
Mercury (Hg)	0.025	0.05
Nickel (Ni)	0.15	0.30
Pesticides & Herbicides	.001	.002
Phenols	1.00	2.0
Selenium (Se)	0.01	0.02
Silver (Ag)	0.05	0.1
Sulfide	25.0	40.0
Zinc (Zn)	0.3	0.6
Total Kjeldahl		
Nitrogen (TKN)	45.00	90.00
Oil & Grease	50.00	100.00
MBAS	5.00	10.0
BOD	220	350
COD	440	700
Suspended Solids	220	350

(4) Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The city shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

(5) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the city from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Health and/or the United States Environmental Protection Agency.

(6) Accidental discharges. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this 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 city 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. Any person causing or suffering from any accidental discharge shall immediately notify the city (or designated official) in person, or by the telephone to enable countermeasures to be taken by the city to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge 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 POTW, fish kills, or any other damage to

person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or 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. In lieu of placing notices on bulletin boards, the users may submit an approved SPIC. Each user shall annually certify to the city compliance with this paragraph.

18-408. Industrial user monitoring, inspection reports, records access, and safety. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the city.

When in the judgment of the city, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the city 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 city, 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 city 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) Inspection and sampling. The city shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user

has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of perform in their specific responsibility.

(3) Compliance date report. Within 180 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the city a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a professional engineer registered to practice engineering in Tennessee.

(4) Periodic compliance reports. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the city during the months of June and December, unless required more frequently in the pretreatment standard or by the city, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards and requirements.

In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the city and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the city may agree to alter the months during which the above reports are to be submitted.

(b) The city may impose mass limitations on users where the imposition of mass limitations are appropriate. in such cases, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass where requested by the city of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed

in the wastewater discharge permit or the pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136, and amendments thereto. Sampling shall be performed in accordance with techniques approved by the administrator.

(5) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

- (a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;
- (b) The dates analyses were performed;
- (c) Who performed the analyses;
- (d) The analytical techniques/methods used; and
- (e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the city, Director of the Division of Water Quality Control, Tennessee Department of Health or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the city, the approval authority, or the Environmental Protection Agency.

(6) Safety. While performing the necessary work on private properties, the city 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.

18-409. Enforcement and abatement. (1) Issuance of cease and desist orders. When the city finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the city shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:

- (a) Comply immediately;
- (b) Comply in accordance with a time schedule set forth by the city;

(c) Take appropriate remedial or preventive action in the event of a threatened violation; or

(d) Surrender the applicable user's permit if ordered to do so after a show cause hearing.

Failure of the city to issue a cease and desist order to a violating user shall not in any way relieve the User from any consequences of a wrongful or illegal discharge.

(2) Submission of time schedule. When the city finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations of pretreatment standards, or the provisions of a wastewater discharge permit, the city shall require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the city within 30 days of the issuance of the cease and desist order.

(3) Show cause hearing. (a) The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the board of commissioners why the proposed enforcement action should not be taken. A notice shall be served on the User specifying the time and place of a hearing to be held by the board of commissioners regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the board of commissioners why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

(b) The board of commissioners may itself conduct the hearing and take the evidence, or the board of commissioners may appoint a person to:

(i) Issue in the name of the board of commissioners notice of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(ii) Take the evidence;

(iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board of commissioners for action thereon.

(c) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of reproduction costs.

(d) After the board of commissioners or the appointed persons have reviewed the evidence, it/they may issue an order to the user

responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(4) Legal action. If any person discharges sewage, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate legal and/or equitable relief in a court of competent jurisdiction.

(5) Emergency termination of service. The city may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes Interference to the POTW or causes the city to violate any condition of its NPDES Permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.

(6) Public nuisance. Discharges or wastewater in any manner in violation of this chapter or of any order issued by the board of commissioners or city manager as authorized by this chapter is hereby declared a public nuisance and shall be corrected or abated as directed by the board of commissioners. Any person creating a public nuisance shall be subject to the provisions of the city code or ordinances governing such nuisance.

(7) Correction of violation and collection of costs. In order to enforce the provisions of this chapter, the violator shall correct any violation hereof. The cost of such correction shall be added to any sewer service charge payable by the person violating this chapter or the owner or tenant of the property upon which the violation occurs, and the city shall have such remedies for the collection of such costs as it has for the collection of sewer service charges.

(8) Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to facilities, the city shall assess a charge against the user for the work required

to clean or repair the facility and add such charge to the user's sewer service charge.

(9) Civil liabilities. Any person or user who intentionally or negligently violates any provision of this chapter, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard or performance, pretreatment, or toxicity standard, shall be liable civilly.

The City of Lakeland shall sue for such damage in any court of competent jurisdiction.

18-410. Penalties; costs. (1) Civil penalties. Any user who is found to have violated an order of the board of commissioners or the city manager, or who willfully or negligently failed to comply with any provision of this chapter, and the order, rules, regulations and permits issued hereunder, shall be fined not less than two hundred fifty and 00/100 dollars (\$250.00) for each offense. Each day of which a violation shall occur or continue shall be deemed a separate and distinct offense.

(2) Costs recoverable. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, engineering fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder.

18-411. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from user's 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;
- (e) Industrial wastewater discharge permit fees;
- (f) Fees for industrial discharge monitoring;
- (g) Renewal and replacement fee; and
- (h) ther 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 § 18-406 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.¹ The board of commissioners 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 § 18-406 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial user's having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

18-412. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the City of Lakeland, Tennessee.

¹Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

CHAPTER 5

SEWERAGE COMMISSION

SECTION

18-501. Establishment.

18-501. Establishment. The Board of Commissioners of the City of Lakeland, Tennessee shall assume and perform the duties required of a sewerage commission in regard to the ownership and operation of the Lakeland Sewerage System. (Ord. #99-02, April 1999)

CHAPTER 6

STORMWATER MANAGEMENT AND POLLUTION CONTROL PLAN

SECTION

- 18-601. General provisions.
- 18-602. Illicit discharges.
- 18-603. Land development and construction activity.
- 18-604. Design and on-site management of stormwater facilities and maintenance agreements.
- 18-605. Enforcement.
- 18-606. Penalties.
- 18-607. Appeals.

18-601. General provisions. (1) Purpose. It is the purpose of this chapter to:

(a) Protect, maintain, and enhance the environment of the city and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city;

(b) Enable the city to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges;

(c) Allow the city to exercise the powers granted in Tennessee Code Annotated, § 68-221-1105, which provides that, among other powers cities have with respect to stormwater facilities, is the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the city, whether or not owned and operated by the city;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;

(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Conflict. All other ordinances related to stormwater management and pollution control or parts of said ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict and this ordinance shall govern.

(3) Severability. If any provision of this ordinance or its application to any person, entity, or property is held invalid, the remainder of the ordinance or the application of the provision to other persons or property shall not be affected. Should any article, section, subsection, clause or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section clause and provision being declared severable.

(4) Definitions. For the purpose of this ordinance, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this article its most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the word "may" is permissive.

(a) "Accidental discharge" - means a discharge prohibited by this ordinance into the City of Lakeland MS4 that occurs by chance and without planning or consideration prior to occurrence.

(b) "Best management practices (BMPs)" - means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of stormwater runoff. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(c) "City" means the City of Lakeland staff, employees, equipment, or contractual resources under the direction and contract with the city.

(d) "City manager" means the chief administrator officer of the city, whose duties are established by Tennessee statutes and by the board of commissioners.

(e) "Clean Water Act or the Act" - means the Federal Water Pollution Control Act, as amended, codified at 33 U.S.C. 1251 *et seq.*

(f) "Commercial" - means property devoted in whole or part to commerce, that is, the exchange and buying and selling of commodities or services. The term shall include, by way of example, but not be limited to the following businesses: amusement establishments, animal clinics or hospitals, automobile service stations, automobile dealerships for new or used vehicles, automobile car washes, automobile and vehicular repair shops, banking establishments, beauty and barber shops, bowling alleys, bus terminals, and repair shops, camera shops, dental offices or clinics, day care centers, department stores, drug stores, funeral homes, furniture stores, gift shops, grocery stores, hardware stores, hotels, jewelry stores, laboratories, laundries, and dry cleaning establishments, liquor stores, medical offices and clinics, motels, movie theaters, office buildings, paint stores or shops, parking lots, produce markets, professional offices, radio stations, repair establishments, retail stores, television stations and production facilities, theaters, truck or construction equipment service stations, truck or construction equipment dealerships for new or used vehicles, truck or construction equipment washing facilities and truck or construction equipment repair shops.

(g) "Construction activity" shall mean any clearing, grading, excavating, or equipment usage that will result in the disturbance of the land surface and is subject to stormwater permit requirements under the State of Tennessee General Permit for Stormwater Discharges Associated with Construction Activity. The term shall not include:

(i) Such minor construction activities as home gardens and individual home landscaping, home repairs, home maintenance work and other related activities that result in minor soil erosion;

(ii) Individual service and sewer connections for single or two family residences;

(iii) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pasture land, forestry land management practices including harvesting, farm ponds, dairy operations, and livestock and poultry management practices and the construction of farm buildings;

(iv) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

(v) Installation, maintenance, and repair of any underground public utility lines when such activity occurs in an existing hard surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard surfaced and a street, curb, gutter or sidewalk permit has been obtained, and if such area is less than one acre of disturbance.

(h) "Critical design storm" - means the design storm specified in the Shelby County Stormwater Management Manual (SWMM).

(i) "Development" means any activity subject to the Tennessee General Permit for Construction Activities.

(j) "Engineer" - means the City of Lakeland City Engineer who is designated to supervise the operation of the stormwater management program and who is charged with certain duties and responsibilities by this ordinance, or his/her duly authorized representative.

(k) "Erosion prevention and sediment control plan" - means a written plan, including drawings or other graphic representations, for the control of soil erosion and sedimentation resulting from a construction activity.

(l) "Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following land uses and activities are deemed stormwater hot spots, but that term is not limited to only these land uses:

(i) Vehicle salvage yards and recycling facilities.

(ii) Vehicle service and maintenance facilities.

(iii) Vehicle and equipment cleaning facilities.

(iv) Fleet storage areas (bus, truck, etc.).

(v) Industrial sites (included on standard industrial classification code list).

(vi) Marinas (service and maintenance).

(vii) Public works storage areas.

(viii) Facilities that generate or store hazardous waste materials.

(ix) Commercial container nursery.

(x) Restaurants and food service facilities.

(xi) Other land uses and activities as designated by an appropriate review authority.

(m) "Illicit connections" means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(n) "Impervious" - means not allowing the passage of water through the surface of the ground or ground covering or a substantial reduction in the capacity for water to pass through the surface of the ground or ground covering.

(o) "Industrial facility" - is a business engaged in industrial production or service, that is, a business characterized by manufacturing or productive enterprise or a related service business. This term shall include but not be limited to the following: apparel and fabric finishers, automobile salvage and junk yards, blast furnace, blueprint and related shops, boiler works, cold storage plants, contractor's plants and storage facilities, foundries, furniture and household goods manufacturing, forge plants, greenhouses, manufacturing plants, metal fabrication shops, ore reduction facilities, planing mills, rock crushers, rolling mills, saw mills, smelting operations, stockyards, stone mills or quarries, textile production, utility transmission or storage facilities, truck or construction equipment salvage or junkyards, warehousing, and wholesaling facilities.

(p) "Institutional" - means an established organization, especially of a public or charitable nature. This term shall include, by way of example, but not be limited to, the following: churches, community buildings, colleges, day care facilities, dormitories, drug or alcohol rehabilitation facilities, fire halls, fraternal organizations, golf courses and driving ranges, government buildings, hospitals, libraries, kindergartens, or preschools, nursing homes, mortuaries, schools, social agencies, synagogues, parks and playgrounds.

(q) "Manager" - means the City of Lakeland City Manager.

(r) "Multi-family residential" - means an apartment building or other residential structure built for three or more units or lots under common ownership, and condominiums of three or more units.

(s) "Municipal Separate Storm Sewer System (MS4)" means the conveyances owned or operated by the city for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, manmade channels, and storm drains, and where the context indicates, it means the municipality that owns the separate storm sewer system.

(t) "National Pollutant Discharge Elimination System or NPDES permit" - means a permit issued pursuant to 33 U.S.C. Ordinance 26 Water Pollution Prevention and Control, subchapter IV Permits and Licenses, section 1342.

(u) "Notice of Intent or N.O.I." - means a written notice by the discharger to the Commissioner of the Tennessee Department of Environment and Conservation, or his/her designee, that a person wishes his/her discharge to be authorized under a general permit authorized by state law or regulation.

(v) "Person" - means any individual, partnership, copartnership, firm, company, trust estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

(w) "Regional facility" - means a stormwater management facility designed to serve more than two properties and 100 or more acres of drainage area. A regional facility typically includes a stormwater pond.

(x) "Redevelopment" - any development subject to the Tennessee General Permit for Construction Activities.

(y) "Significant spills" - releases of oil or hazardous substances in excess of reportable quantities under section 311 of the Clean Water Act (at 40 CFR 110.10 and CFR 117.21) or section 102 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), (at CFR 302.4).

(z) "Stormwater" - refers to water induced or created from precipitation whether rain, snow or ice and either stored, collected, detained, absorbed, or discharged.

(aa) "Stormwater management facility" - means a stormwater management control device, structure, or system of such physical components designed to treat, detain, store, convey, absorb, conserve, protect, or otherwise control stormwater.

(bb) "Stormwater management" - means the collection, conveyance, storage, treatment and disposal of stormwater in a manner to meet the objectives of this ordinance and its terms, including, but not be limited to measures that control the increase volume and rate of stormwater runoff and water quality impacts caused or induced by manmade changes to the land.

(cc) "Stormwater management manual (SWMM)" - means the guidance document adopted for use by Shelby County. The manual provides the technical standards and information necessary for proper design and construction of stormwater management facilities and the management of stormwater management infrastructure as defined in § 18-604.

(dd) "Stormwater management plan or SWMP" - means the set of drawings and other documents that comprise all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques for the City of Lakeland and as part of this ordinance.

(ee) "Stormwater Pollution Prevention Plan (SWPPP)" - means a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants.

(ff) "Stormwater sewer system" - means the network of conveyances and/or storage facilities that collect, detain, absorb, treat, channel, discharge, or otherwise control the quantity and quality of stormwater.

(gg) "Stream" - means any river, creek, slough and/or natural water-course in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some parts of the bed have been dredged or improved does not prevent the water-course from being a stream. For the purposes of this ordinance, a stream is not a "wet weather conveyance" as also defined herein. Typically, streams are identified on USGS maps by solid blue lines and intermittent streams are depicted by dashed blue lines.

(hh) "TDEC" means the Tennessee Department of Environment and Conservation.

(ii) "Toxic pollutant" - means any pollutant or combination of pollutants listed as toxic in 40 CFR Part 401 promulgated by the Administrator of the Environmental Protection Agency under the provisions of 33 U.S.C. 1317.

(jj) "Variance" - means the modification of the minimum stormwater management requirements contained in this ordinance and the stormwater management plan for specific circumstances where strict adherence of the requirement would result in unnecessary hardship and not fulfill the intent of this ordinance.

(kk) "Water quality" - means characteristics that are related to the physical, chemical, biological, and/or radiological integrity of stormwater.

(ll) "Watershed management program" - means a balanced program and plan of controlling the quantity and quality of water resources through comprehensive land and water resource management. Such management includes but is not limited to pollution control, land development controls, best management practices both structural and non-structural, preservation, habitat protection, and well-head protection. This program incorporates the state's NPDES stormwater quality permit program within such watersheds or portions thereof as are located inside Lakeland's geographical boundaries.

(mm) "Watershed master plan" - means the guidance vehicle for implementing the "watershed management program."

(nn) "Waterway buffer" - means an area including trees, shrubs, and herbaceous vegetation that exists or is established to protect and separate a stream, waterway, lake, reservoir, or pond or other body of water from buildings and/or structures and other land uses that alter habitat, geomorphology, water quality, and hydrology.

(oo) "Wet weather conveyance" - as defined in Rule 1200-4-3-.04 of the Rules of the Tennessee Department of Environment and Conservation. Wet weather conveyances are man made or natural water courses, including natural water courses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality, the channels of which are above the

groundwater table and which do not support fish or aquatic life and are not suitable for drinking water supplies. Rule 1200-4-3-.02(7) requires that waters designated as wet weather conveyances shall be protective of wildlife and humans that may come in contact with them and maintain standards applicable to all downstream waters. No other use classification or water quality criteria apply to these waters.

(5) **Abbreviations.** (a) CERCLA - means the Comprehensive Environmental Response, Compensation and Liability Act in its original form or as amended.

(b) CFR - Code of Federal Regulations

(c) FEMA - Federal Emergency Management Agency

(d) MS4 - Municipal Separate Storm Sewer System means the City of Lakeland separate stormwater system both natural and manmade as may be subject to the NPDES Stormwater Permit for the City of Lakeland.

(e) SWPPP - Stormwater Pollution Prevention Plan

(f) TCA - Tennessee Code Annotated (latest version)

(g) TNCGP - Tennessee Construction General Permit

(h) TMSP - Tennessee Multi-Sector Permit for stormwater discharges associated with industrial activity (see § 18-605 (2))

(i) U.S.C - means United States Code

(j) WMM - Watershed Management Manual.

(as added by Ord. #04-67, July 2004, and amended by Ord. #12-183, Dec. 2012)

18-602. Illicit discharges. (1) Unauthorized discharge a public nuisance. Discharge of stormwater in any manner in violation of this ordinance; or any violation of any condition of a permit issued pursuant to this ordinance; or any violation of any condition of a stormwater discharge permit issued by the State of Tennessee Department of Environment and Conservation is hereby declared a public nuisance and shall be corrected or abated.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater or any discharge that flows from stormwater facility that is not inspected in accordance with § 18-604 shall be an illicit discharge. Non-stormwater discharges shall include, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

(i) Water line flushing or other potable water sources;

(ii) Landscape irrigation or lawn watering with potable water;

- (iii) Diverted stream flows;
- (iv) Rising ground water;
- (v) Groundwater infiltration to storm drains;
- (vi) Pumped groundwater;
- (vii) Foundation or footing;
- (viii) Crawl space pumps;
- (ix) Air conditioning;
- (x) Springs;
- (xi) Non-commercial washing of vehicles;
- (xii) Natural riparian habitat or wetland flows;
- (xiii) Swimming pools (if dechlorinated - typically less than one (1) PPM chlorine);
- (xiv) Firefighting activities;
- (xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the city as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the city has so specified in writing.

(d) Discharges authorized by the Construction General Permit (CGP), which comply with section 3.5.9 of the same:

(i) Dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);

(ii) Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves site;

(iii) Water used to control dust in accordance with CGP section 3.5.5;

(iv) Potable water sources including waterline flushings from which chlorine has been removed to the maximum extent practicable;

(v) Routine external building washdown that does not use detergents or other chemicals;

(vi) Uncontaminated groundwater or spring water; and

(vii) Foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).

(3) Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the city in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(6) Monitoring and inspection. (a) Monitoring. The engineer shall periodically monitor compliance of the stormwater NPDES permit holder.

(b) Detection of illicit connections and improper disposal. The engineer shall take appropriate steps to detect and eliminate illicit connections to the City of Lakeland MS4, including the adoption of programs to identify illicit discharges and their source or sources and provide for public education, public information and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials and household hazardous waste.

(c) Inspections. (i) The engineer or his/her designee, bearing proper credentials and identification, may enter and inspect properties for inspections, investigations, monitoring, observation, measurement, enforcement, sampling and testing, to effectuate the provisions of this ordinance, the stormwater management plan, and/or the NPDES stormwater permit. The engineer or his/her designee shall duly notify the owner of said property or the

representative on site and the inspection shall be conducted at reasonable times.

(ii) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas wherein no objection is raised. The inspector shall immediately report the refusal and the circumstances to the engineer. The engineer may seek appropriate action.

(iii) In the event the engineer or his/her designee reasonably believes that discharges into the City of Lakeland MS4 may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon request by the owner or representative.

(iv) At any time during the conduct of an inspection or at such other times as the engineer or his/her designee may request information from an owner or representative, the owner or representative may identify areas of the facility or establishment, material or processes which contains or may contain a trade secret. If the engineer or his/her designee has no clear and convincing reason to question such identification, the inspection report shall note that trade secret information has been omitted. To the extent practicable, the engineer shall protect all information that is designated as a trade secret by the owner or their representative. (as added by Ord. #04-67, July 2004, and amended by Ord. #12-183, Dec. 2012)

18-603. Land development and construction activity. (1) This section shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, land disturbance applications and grading applications. These standards apply to any new development or redevelopment site that meets one (1) or more of the following criteria:

(a) One (1) acre or more;

(i) New development that involves land development activities of one (1) acre or more;

(ii) Redevelopment that involves other land development activity of one (1) acre or more;

(b) Projects or developments of less than one (1) acre of total land disturbance must acquire a land disturbance permit from the City of Lakeland if:

(i) The City of Lakeland has determined that the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;

(ii) The City of Lakeland has determined that the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state;

(c) Changes in state or federal rules require sites of less than one (1) acre that are not part of a larger common plan of development or sale to obtain a stormwater permit;

(d) Any new development or redevelopment, regardless of size, that is defined by the City of Lakeland to be a hotspot land use; or

(e) Minimum applicability criteria set forth in item (a) above if such activities are part of a larger common plan of development, even multiple, that is part of a separate and distinct land development activity that may take place at different times on different schedules.

(f) Any discharge of stormwater or other fluid to an improved sinkhole or other injection well, as defined, must be authorized by permit or rule as a Class V underground injection well under the provisions of Tennessee Department of Environment and Conservation (TDEC) Rules, Chapter 1200-4-6.

(2) Construction activity. regulated. (a) A Stormwater Pollution Prevention Plan (SWPPP) must be prepared and approved by the City of Lakeland and TDEC before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the current Tennessee Erosion and Sediment Control Handbook. All SWPPPs shall be prepared and updated in accordance with section 3 of the General National Pollutant Discharge Elimination System (NPDES) Permit for Discharges of Stormwater Associated with Construction Activities.

(b) The erosion prevention and sediment control plan component of the SWPPP shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. If necessary, the plan shall be phased so that changes to the site during construction that alter drainage patterns or characteristics will be addressed by an appropriate phase of the plan. The plan shall be sealed by a registered professional engineer or landscape architect licensed in the State of Tennessee. The plan shall also conform to the requirements found in the MS4 BMP manual, and shall include at least the following:

(i) Project description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(ii) A topographic map with contour intervals of five feet (5') or less showing present conditions and proposed contours resulting from land disturbing activity.

(iii) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(iv) A general description of existing land cover. A tree management plan shall be submitted as part of the SWWP. Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

(v) Approximate limits of proposed clearing, grading and filling.

(vi) Approximate flows of existing stormwater leaving any portion of the site.

(vii) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(viii) Location, size and layout of proposed stormwater and sedimentation control improvements.

(ix) Existing and proposed drainage network.

(x) Proposed drain tile or waterway sizes.

(xi) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

(xii) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention/detention facilities or any other structural BMPs.

(xiii) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(xiv) Specific details for: the construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the city. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day to the satisfaction of the city. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(xv) Proposed structures: location and identification of any proposed additional buildings, structures or development on the site.

(xvi) A description of on-site measures to be taken to recharge surface water into the ground water system through runoff reduction practices.

(xvii) Specific details for construction waste management. Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. When the material is erodible, such as soil, the site must be treated as a construction site.

(c) Exempted construction activity. The following activities may be undertaken without formal notice; however, the persons conducting these excluded activities shall remain responsible for otherwise conducting those activities in accordance with the provisions of this ordinance and other applicable law including responsibility for controlling sedimentation and runoff.

(i) Such minor construction activities as home gardens and individual home landscaping, home repairs, home maintenance work and other related activities that result in minor soil erosion;

(ii) Individual service and sewer connections for single or two family residences;

(iii) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pastureland, forestry land management practices (refer also to the Lakeland Tree Management Ordinance (03-36) including harvesting, farm ponds, dairy operations, and

livestock and poultry management practices and the construction of farm buildings;

(iv) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

(v) Installation, maintenance, and repair of any underground public utility lines when such activity occurs in an existing hard surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard surfaced and a street, curb, gutter or sidewalk permit has been obtained;

(vi) Construction of a single family residence in which the lot owner is the proposed resident.

(d) Permitting requirements. Permittees who discharge stormwater through an NPDES-permitted municipal separate storm sewer system (MS4) who are not exempted in section 1.4. of the Construction General Permit (CGP) must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed Notice Of Termination (NOT) to the City of Lakeland Engineering Office.

(3) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be stabilized. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than fifteen (15) days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

(i) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(ii) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within fifteen (15) days.

(b) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.

- (c) The following criteria shall apply to revegetation efforts:
- (i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
 - (ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
 - (iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
 - (iv) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. (as added by Ord. #04-67, July 2004, and amended by Ord. #112-183, Dec. 2012)

18-604. Design and on-site management of stormwater facilities and maintenance agreements. (1) Maintenance agreement-deed restriction. Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.

(2) Maintenance agreement requirements. The maintenance agreement shall:

- (a) Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
- (b) Provide for a periodic inspection by the property owners in accordance with the requirements of subsections below for the purpose of documenting maintenance and repair needs and to ensure compliance

with the requirements of this ordinance. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(c) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manual.

(d) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the city manager.

(e) Provide that if the property is not maintained or repaired within the prescribed schedule, the city manager may direct city employees and other resources to perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the city's cost of performing the maintenance shall be a lien against the property.

(3) Existing problem locations - no maintenance agreement. (a) The city manager shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(b) Inspection of existing facilities. The city may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the city's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water

in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(4) Owner/operator inspections - generally. The owners and/or the operators of stormwater management practices shall:

(a) Perform routine inspections to ensure that the BMPs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The city manager may require submittal of this documentation.

(b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five (5) year inspections shall include:

- (i) Facility type,
- (ii) Inspection date,
- (iii) Latitude and longitude and nearest street address,
- (iv) BMP owner information (e.g. name, address, phone number, fax, and email),

(v) A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,

- (vi) Photographic documentation of BMPs, and
- (vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates.

(c) Owners or operators shall maintain documentation of these inspections. The city manager may require submittal of this documentation.

(5) Requirements for all existing locations and ongoing developments. The following requirements shall apply to all locations and developments at which land disturbing activities have occurred:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in § 18-603 and on a schedule acceptable to the city manager.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall, at the discretion of the city manager be controlled to the maximum extent practicable to prevent its pollution. Such control measures may include, but are not limited to, the following:

- (i) Ponds
 - (A) Detention pond
 - (B) Extended detention pond
 - (C) Wet pond
 - (D) Alternative storage measures
- (ii) Constructed wetlands
- (iii) Infiltration systems
 - (A) Infiltration/percolation trench
 - (B) Infiltration basin
 - (C) Drainage (recharge) well
 - (D) Porous pavement
- (iv) Filtering systems
 - (A) Catch basin inserts/media filter
 - (B) Sand filter
 - (C) Filter/absorption bed
 - (D) Filter and buffer strips
- (v) Open channel
 - (A) Swale

(6) Corrections of problems subject to appeal. Corrective measures imposed by the city under this section are subject to appeal under § 18-607 of this chapter.

(7) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in §14-506.

(8) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the city during inspection of the facility and at other reasonable times upon request.

(9) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the city shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective

action is not undertaken within that time, the city may take necessary corrective action. The cost of any action by the city under this section shall be charged to the responsible party.

(10) Design of stormwater facilities. Minimum design standards for stormwater facilities shall follow the Memphis Shelby County Stormwater Design Manual and the City of Lakeland subdivision regulations whichever is the more stringent. (as added by Ord. #04-67, July 2004, as replaced by Ord. #12-183, Dec. 2012)

18-605. Enforcement. (1) Enforcement authority. The City of Lakeland shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Measures authorized include:

(a) Verbal warnings - At a minimum, verbal warnings must specify the nature of the violation and required corrective action.

(b) Written notices - Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.

(c) Citations with administrative penalties - The MS4 has the authority to assess monetary penalties, which may include civil and administrative penalties.

(d) Stop work orders - Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.

(e) Withholding of plan approvals or other authorizations - Where a facility is in noncompliance, the MS4s own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.

(f) Additional measures - The MS4 may also use other escalated measures provided under local legal authorities. The MS4 may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

(2) Notification of violation:

(a) Verbal warning. Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.

(b) Written notice. Whenever the city manager finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the City of Lakeland may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a

plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the city manager. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(c) Consent orders. The City of Lakeland is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

(d) Show cause hearing. The city manager may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(e) Compliance order. When the city manager finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(f) Cease and desist and stop work orders. When the city manager finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the city manager may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:

(i) Comply forthwith; or

(ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for terminating the discharge and installing appropriate control measures.

(g) Suspension, revocation or modification of permit. The City of Lakeland may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the city. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person

has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the City of Lakeland may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(h) **Conflicting standards.** Whenever there is a conflict between any standard contained in this chapter and in the BMP manual adopted by the city under this ordinance, the strictest standard shall prevail. (as added by Ord. #04-67, July 2004, and replaced by Ord. #12-183, Dec. 2012)

18-606. Penalties. (1) **Violations.** Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of Lakeland, shall be guilty of a civil offense.

(2) **Penalties.** Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the city declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of Lakeland of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) **Measuring civil penalties.** In assessing a civil penalty, the City of Lakeland (stormwater entity) may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary enforcement costs incurred by the city;
- (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) **Recovery of damages and costs.** In addition to the civil penalty in subsection (2) above, the city may recover:

- (a) All damages proximately caused by the violator to the city, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.

(b) The costs of the city's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.

(5) Referral to TDEC. Where the city has used progressive enforcement to achieve compliance with this ordinance, and in the judgment of the city has not been successful, the city may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and two (2) warning letters. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:

- (a) Construction project or industrial facility location;
- (b) Name of owner or operator;
- (c) Estimated construction project or size or type of industrial activity (including SIC code, if known);
- (d) Records of communications with the owner or operator regarding the violation, including at least two (2) follow-up inspections, two (2) warning letters or notices of violation, and any response from the owner or operator.

(6) Other remedies. The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(7) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #04-67, July 2004, and replaced by Ord. #12-183, Dec. 2012)

18-607. Appeals. (1) Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the city's governing body.

(2) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(3) Public hearing. Upon receipt of an appeal, the city's governing body, or other appeals board established by the city's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the city shall be final.

(4) Appealing decisions of the city's governing body. Any alleged violator may appeal a decision of the city's governing body pursuant to the

provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #12-183, Dec. 2012)

CHAPTER 7

WASTEWATER COLLECTION SYSTEM OVERSIZING ALLOWANCES

SECTION

- 18-701. Purpose and scope.
- 18-702. Definitions.
- 18-703. Oversizing requirements.
- 18-704. Oversizing reimbursement and recapture provisions.
- 18-705. Exemptions.
- 18-706. Appeals.
- 18-707. Severability.

18-701. Purpose and scope. (1) The city has the authority to enact this chapter pursuant to state statutes.

(2) The purpose of this chapter is to provide developers oversizing reimbursements for the oversizing of wastewater collection systems.

(3) This chapter shall apply to all city-owned or controlled wastewater collection facilities and systems within the city limits of Lakeland.

(4) This chapter does not apply to other governmental entities or agencies that own) operate, and maintain their own wastewater collection systems.

(5) This chapter does not apply to privately-owned wastewater collection systems connected to the city systems. (as added by Ord. #08-127, Dec. 2008)

18-702. Definitions. The following definitions shall apply in the interpretation of this chapter:

(1) "City" means the governing body of the City of Lakeland, Tennessee

(2) "Developer" means any individual, person, subdivision, or other legal entity that must construct and/or extend wastewater collection facilities for system or project improvements.

(3) "City manager" means the city manager or his/her appointed designee.

(4) "Master plans" means the currently adopted wastewater collection system master plan, and the comprehensive land use plan developed for the city which may indicate the size and conceptual location of wastewater collection mains in order to service future expansion of the city.

(5) "Oversizing reimbursement" means payment to a developer for the oversizing costs of wastewater collection systems above the size required to serve the proposed and potential development.

(6) "Oversized wastewater collection mains" means generally wastewater collection mains over ten inches (10") in diameter and are required by the adjacent land use, master plan or system improvements.

(7) "Project improvements" means wastewater facilities that are planned and designed to provide service for a particular development project, and are necessary for the use and convenience for the occupants or users for such project, and are not considered system improvements to be considered for over-sizing reimbursement by the city as otherwise provided herein. The character of the improvements shall control the determination of whether an improvement is a project improvement or a system improvement, and a physical location of the improvement on-site or off-site shall not be considered determinative of whether an improvement is a project improvement or system improvement. If an improvement or facility provides, or will provide, more than incidental service or facilities to persons other than the user occupants of a particular project, the improvement or facility is a system improvement and shall not be considered a project improvement.

(8) "System improvements" means capital improvements that are wastewater facility improvements which are designed to provide service to the community-at-large in contrast to project improvements for a particular development. (as added by Ord. #08-127, Dec. 2008)

18-703. Over-sizing requirements. The oversizing of wastewater collection systems shall be based upon the city's master plans. However, the city reserves the right to specify sizes and locations of all sewer mains, including those not otherwise delineated by the master plans.

(1) All developers shall develop and plan for wastewater collection systems in accordance with the requirements of the city, and for the sizing and location of such system improvements.

(2) The developer, at its sole expense, shall furnish and install all wastewater collection systems in the project. The city shall compensate the developer for over-sizing of wastewater collection systems as provided herein.

(a) The city, in requiring the oversizing of wastewater collection systems, may consider the following:

(i) The developer shall provide a wastewater collection system analysis performed by an engineer in accordance with design requirements established by the Tennessee Department of Environment and Conservation and the city. The wastewater system hydraulic analysis shall be approved by the city engineer to be acceptable for serving the developer's project and all surrounding lands also owned by the developer and/or other partnerships or corporations in which the developer has an interest.

(ii) Whether oversizing corrects wastewater collection not identified in the appropriate master plan.

(iii) Whether oversizing corrects wastewater collection system deficiencies identified in the appropriate master plan or as identified by the city.

(iv) Whether the project promotes infill or extension of oversized wastewater collection systems located within or adjacent to the city limits.

(v) Wastewater collection system deficiencies shall be determined solely by the city.

(3) A developer shall, as solely determined and directed by the city, install oversized wastewater collection mains, when sizing may not necessarily be in concurrence with the master plans adopted by the city. (as added by Ord. #08-127, Dec. 2008)

18-704. Oversizing reimbursement and recapture provisions.

(1) An oversizing reimbursement shall be available to the developer for oversizing wastewater collection systems as required by the city to be installed in a project or development. Oversizing reimbursement provisions shall be contained in a development contract with the developer.

(2) The developer shall be solely responsible for all wastewater collection systems sized to service the developer's project and any surrounding land also owned by the developer and/or other partnerships or corporations in which the developer has an interest. An oversizing reimbursement may only be allowed for the size as required by the city over the size reasonably required by the project and any surrounding land also owned by the developer, and/or other partnerships or corporations in which the developer has an interest.

The oversizing reimbursement shall be calculated and based upon twice the difference of the reasonable cost of materials, as specified below, or the sizing, as required by the city, of the sewer pipe for the wastewater collection system over and above the cost of the same materials for such wastewater collection system otherwise reasonably sized for the project and all the surrounding land also owned by the developer and/or other partnerships or corporations in which the developer has an interest. An engineer of the developer shall supply a list of associated material costs and all oversizing quantities required for the project to the city. These oversizing quantities must be certified by the city engineer to be correct to his/her best belief and knowledge.

(4) The oversizing reimbursement shall be determined by the city, based on material costs prevailing at the time of the execution of the development contract.

(5) An oversizing reimbursement shall not be paid to the developer until the project or development is fully accepted by the city for ownership, operation, and maintenance. A developer shall apply to the city through the city engineer's office for all oversizing reimbursements within one hundred eighty (180) days of the date the developer is notified by the city of the commencement of one (1) year warranty period for the wastewater collection system oversized pursuant to this chapter or otherwise be forever barred from applying for or collecting from the city any such oversizing reimbursement.

(6) If sufficient funds are not available from the city sewer fund to finance the cost for oversizing reimbursement, the payment of the reimbursement will be postponed, interest free, until such time as appropriate funds are available.

(7) If at any time in the future should a developer connect onto a sewer line previously provided an oversizing allowance, the city shall be entitled to recapture a portion of the oversizing allowance based on the percentage unused hydraulic capacity of the oversized sewer main. The amount of recapture shall be as determined by the procedures outlined in the fee schedule.

The recapture amount shall be provided to the City of Lakeland upon execution of the development contract for that particular development. If no development contract exists, the fees shall be paid prior to connecting up to the sewer. (as added by Ord. #08-127, Dec. 2008)

18-705. Exemptions. (1) The following shall be exempted from this chapter and over-sizing requirements and over-sizing reimbursement:

(a) Privately-owned and other governmental entities/agency-owned, operated and maintained wastewater collection systems connected to the city systems will be exempt from this chapter and are not eligible for oversizing reimbursements as otherwise provided by this chapter. Only wastewater collection mains to be accepted by the city for public ownership and maintenance will be eligible for an oversizing reimbursement. (as added by Ord. #08-127, Dec. 2008)

18-706. Appeals. (1) Any developer directly aggrieved by a decision of the city with respect to the determination of the amount or methodology in calculation of an over-sizing reimbursement may appeal their cause to the board of appeals.

(2) An appeal notice which states the grounds and reasons for the appeal shall be made in writing to the board of appeals within twenty (20) days of the date the developer is notified of the amount and calculation of an oversizing reimbursement. The board of appeals is to preside at and make a record of such appeal. (as added by Ord. #08-127, Dec. 2008)

18-707. Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holdings shall not affect the validity of the remaining portions thereof of this chapter. (as added by Ord. #08-127, Dec. 2008)

CHAPTER 8

STORMWATER MANAGEMENT PROGRAM

SECTION

- 18-801. Legislative findings and policy.
- 18-802. Creation of stormwater management program.
- 18-803. Definitions.
- 18-804. Funding of stormwater management program.
- 18-805. Stormwater fund.
- 18-806. Operating budget.
- 18-807. Stormwater user's fees established.
- 18-808. Equivalent Residential Unit (ERU).
- 18-809. Property classification for stormwater user's fee.
- 18-810. Base rate.
- 18-811. Adjustments to stormwater user's fees.
- 18-812. Property owners to pay charges.
- 18-813. Billing procedures and penalties for late payment.
- 18-814. Appeals of fees.
- 18-815. Enforcement, abatement, penalties, and appeals.

18-801. Legislative findings and policy. The Mayor and Board of Commissioners of the City of Lakeland, Tennessee; finds, determines and declares that the stormwater system which provides for the collection, treatment, storage, and disposal of stormwater provides benefits and services to all property within the incorporated city limits. Such benefits include, but are not limited to: the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazards to property and life resulting from stormwater runoff; improvements in general health and welfare through reduction of undesirable stormwater conditions; and improvements to the water quality in the stormwater and surface water system and its receiving waters. (as added by Ord. #08-117, May 2008)

18-802. Creation of stormwater management program. For those purposes of the Federal Clean Water Act and of Tennessee Code Annotated, § 68-221-1101, et seq., there is created a stormwater management program which shall consist of a manager or director and such staff as designated and appointed by the city manager of the city. The stormwater management program shall be under direction and control of the city manager and shall:

- (1) Administer the acquisition, design, construction, maintenance and operation of the stormwater system, including operational and material expenses, and capital improvements designated in the capital improvement program;

(2) Administer and enforce the ordinance comprising this chapter and all regulations and procedures adopted relating to the design, construction, maintenance, operation, and alteration of the stormwater system, including, but not limited to, the quantity and quality of the stormwater conveyed thereby;

(3) Advise the city manager on matters relating to the stormwater fund, Equivalent Residential Units (ERU), user fee and other appropriate terms and conditions which affect the financial stability of the fund.

(4) Prepare, revise and amend a comprehensive stormwater management plan for adoption by the municipality's governing body;

(5) Review construction plans and approve or deny, inspect, and accept extensions and connections to the city's stormwater system;

(6) Assist in the enforcement of regulations to protect and maintain water quality and quantity within the system in compliance with water quality standards established by local, state, and/or federal agencies as now adopted or hereafter amended;

(7) Annually analyze the cost of services and benefits provided, and the system and structure of fees, charges, civil penalties, and other revenues of the program. (as added by Ord. #08-117, May 2008)

18-803. Definitions. For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Base rate" means the stormwater user's fee for a detached single family residential property in the city.

(2) "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement, or extension of stormwater facilities; preliminary planning to determine the economic and engineering feasibility of stormwater facilities; the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of stormwater facilities; and the inspection and supervision of the construction of stormwater facilities.

(3) "Developed property" means real property which has been altered from its natural state by the creation or addition of impervious areas, by the addition of any buildings, structures, pavement or other improvements.

(4) "Equivalent Residential Unit" or "ERU" means the average impervious area associated within a detached single family residential property determined pursuant to this chapter.

(5) "Exempt property" means all properties of the federal, state, county, and city governments, and any of their divisions or subdivisions, and

property that does not discharge stormwater runoff into the stormwater or flood control facilities of the municipality.

(6) "Fee" or "stormwater user's fee" means the charge established under this ordinance and levied on owners or users of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the municipality. The stormwater user's fee is in addition to any other fee that the municipality or home owner's association has the right to charge under any other rule or regulation of the municipality or home owner's association.

(7) "Fiscal year" means July 1 of a calendar year to June 30 of the next calendar year, both inclusive.

(8) "Impervious surface" means a surface which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or any other surface which impedes the natural infiltration of surface water.

(9) "Impervious surface area" means the number of square feet of horizontal surface covered by buildings, and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.

(10) "Other developed property" means developed property other than single-family residential property. Such property shall include, but not be limited to, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices, and churches.

(11) Parcel means any area of land described by a single legal description.

(12) "Person" means any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(13) "Property owner" means the property owner of record as listed in the county's assessment roll. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

(14) "Single family residential property" means a developed property which serves the primary purpose of providing a permanent dwelling unit to a single family. A single family detached dwelling or a townhouse containing an accessory apartment or second dwelling unit is included in this definition.

(15) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration, and drainage.

(16) "Stormwater facilities" means the drainage structures, conduits, conveyances, waterways, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(17) "Stormwater management fund" or "fund" means the fund created by this chapter to operate, maintain, and improve the city's stormwater system.

(18) "Stormwater management program" means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water quality and quantity.

(19) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(20) "User" shall mean the owner of record of property subject to the stormwater user's fee imposed by this chapter.

(21) "Undisturbed property" means real property, which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities, which have disturbed or altered the topography of soils on the property. (as added by Ord. #08-117, May 2008)

18-804. Funding of stormwater management program. Funding for the stormwater management program may include, but not be limited to, the following:

- (1) Stormwater user's fees.
- (2) Civil penalties and damage assessments imposed for or arising from the violation of the city's stormwater management program ordinance.
- (3) Stormwater permit and inspection fees.
- (4) Other funds or income obtained from federal, state, local, and private grants, or revolving funds, and from the Local Government Public Obligations Act of 1986.¹

To the extent that the stormwater drainage fees collected are insufficient to construct needed stormwater drainage facilities, the cost of the same may be paid from such city funds as may be determined by the municipality's governing body. (as added by Ord. #08-117, May 2008)

18-805. Stormwater fund. All revenues generated by or on behalf of the stormwater program shall be deposited in a stormwater program fund and used exclusively for the stormwater program. (as added by Ord. #08-117, May 2008)

18-806. Operating budget. The municipality's governing body shall adopt an operating budget for the stormwater program each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service. (as added by Ord. #08-117, May 2008)

¹State law reference

Tennessee Code Annotated, title 9, chapter 21.

18-807. Stormwater user's fees established. There shall be imposed on each and every developed property in the city, except exempt property, a stormwater user's fee, which shall be set from time to time by ordinance and in the manner and amount prescribed by this ordinance. (as added by Ord. #08-117, May 2008)

18-808. Equivalent Residential Unit (ERU). (1) Establishment. There is established for purposes of calculating the stormwater user's fee the Equivalent Residential Unit (ERU) equal to six thousand (6,000) square feet of impervious area.

(2) Setting the ERU. The ERU shall be amended by the municipality's governing body from time to time by ordinance.

(3) Source of ERU. The municipality's governing body shall have the discretion to determine the source of the data from which the ERU is established, taking into consideration the general acceptance and use of such source on the part of other stormwater systems, and the reliability and general accuracy of the source. The municipality's governing body shall have the discretion to determine the impervious surface area of other developed property through property tax assessor's rolls or site examination, mapping information, aerial photographs, and other reliable information. (as added by Ord. #08-117, May 2008)

18-809. Property classification for stormwater user's fee.

(1) Property classifications. For purposes of determining the stormwater user's fee, all properties in the city are classified into one (1) of the following classes:

- (a) Single family residential property;
- (b) Developed property;
- (c) Undeveloped property;
 - (i) Disturbed (farm land);
 - (ii) Undisturbed (grass land);
- (d) Exempt property.

(2) Single family residential property and fee. The municipality's governing body finds that the intensity of development of most parcels of real property in the municipality classified as single family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structures, and other impervious areas) on each such parcel. Therefore, all single family residential properties in the city shall be charged a flat stormwater management fee, equal the base rate, regardless of the size of the parcel or the improvements.

(3) Developed property and fee. The fee for developed property (i.e., non-single-family residential property) in the municipality shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one (1) ERU times a correction factor based

on the following onsite improvements. The improvements and the correction factors are as follows:

(a) For developed properties that discharge into onsite dry detention ponds that regulate discharges not to exceed the historical flow-rate, the correction factor shall be 0.40.

(b) For developed properties that utilize other onsite structures that meet the Tennessee Department of Environment and Conservation best management practices that reduce runoff volumes to within five percent (5%) of the historical flow-rates and can demonstrate the improvement of stormwater runoff quality by means of engineering principles, the correction factor shall be 0.55.

(c) If no onsite improvements exist, the correction factor shall be 1.0.

All stormwater runoff from the developed site shall be covered by the improvements listed above in order to receive a correction factor for the entire site. The minimum stormwater management fee for other developed property shall equal the base rate for single family residential property.

(4) Undeveloped property. (a) Disturbed (farm land). Parcels which are disturbed by farming activities which results in an annual cycle of planting and harvest will be charged a stormwater fee of one (1) ERU unless significant erosion is allowed to occur due to an increase in stormwater runoff.

(b) Undisturbed parcels which are undisturbed and remain in a natural state of vegetative growth (grass land) and are maintained to prevent erosion by periodic mowing or other appropriate means will not be charged a stormwater fee. Undisturbed parcels that are not maintained in appropriate conservation practices will be considered to be disturbed and a stormwater user's fee shall be assessed in accordance with procedures outlined herein this chapter.

(5) Exempt property. There shall be no stormwater user's fee for exempt property. (as added by Ord. #08-117, May 2008)

18-810. Base rate. The municipality's governing body shall, by ordinance, establish the base rate for the stormwater user's fee. The base rate shall be calculated to insure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system in the city. (as added by Ord. #08-117, May 2008)

18-811. Adjustments to stormwater user's fees. The stormwater program shall have the right on its own initiative to adjust upward or downward the stormwater user's fees with respect to any property, based on the approximate percentage on any significant variation in the volume or rate of stormwater, or any significant variation in the quality of stormwater, emanating

from the property, compared to other similar properties. In making determinations of the similarity of property, the stormwater program shall take into consideration the location, geography, size, use, impervious area, stormwater facilities on the property, and any other factors that have a bearing on the variation. (as added by Ord. #08-117, May 2008)

18-812. Property owners to pay charges. The owner of each non-exempt lot or parcel shall pay the stormwater user's fees and charges as provided in this chapter. (as added by Ord. #08-117, May 2008)

18-813. Billing procedures and penalties for late payment.

(1) **Rate and collection schedule.** The stormwater user's fee will be set at a rate, and collected on a schedule established by ordinance. The stormwater fee shall reflect the nature of the property classification by the water meter billing. The stormwater user fee for single-family residential and non-residential developed property shall be billed and collected monthly. Apartment buildings will be billed monthly to either a master meter (base rate times the number of individual apartments) or to the individual meters for each apartment resident, whichever the case may be. The owner of a mobile home park will receive a monthly bill for the entire complex (base rate times the number of individual mobile home sites). Undeveloped properties will be billed monthly at the rate established by this ordinance if the property is utilized for farming activities and allowed to erode and contribute to pollution of streams, rivers and ponds here in Lakeland.

(2) **Delinquent bills.** The stormwater user's fee shall be billed through Memphis Light, Gas, and Water and paid by mail or in person as per their requirements; and shall become delinquent as of sixty (60) days following the billing. Any unpaid stormwater user's fee shall bear interest at the legal rate if it remains unpaid after one hundred twenty (120) days following the billing. (as added by Ord. #08-117, May 2008)

18-814. Appeals of fees. (1) The City of Lakeland Board of Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(2) Variances may be issued in regards to the stormwater user fees and/or property classification. The stormwater management plan operating budget shall not be appealed.

(3) In passing upon such variances, the board of appeals shall consider all technical evaluations, all relevant factors such as practices that meet the Tennessee Department of Environment and Conservation best management practices, historical flows versus developed flows, and all standards specified in other sections of this chapter, and,

(4) Upon consideration of the factors listed above, and the purposes of this chapter, the board of appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

(5) Request for variances may be appealed within thirty (30) calendar days from the date of the last bill containing stormwater user's fees charges.

(6) Variances may be issued upon a determination that the variance is the minimum relief necessary, considering the amount of the fee and/or the property classification.

(7) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship compared to other similarly assessed property; and

(c) A determination that the granting of a variance will not result in conflict with existing local laws or ordinances.

(8) Written notice. Any applicant to whom a variance is granted shall be given written notice by the board of appeals.

(9) Record keeping and reporting. The City of Lakeland shall maintain the record of all appeal actions.

(10) All appeals shall be reviewed and a decision rendered within forty-five days (45) days after the appeal is filed. (as added by Ord. #08-117, May 2008)

18-815. Enforcement, abatement, penalties, and appeals.

(1) Enforcement and abatement authority. The city manager or his designees shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section.

(2) Notification of violation. (a) Written notice. Whenever the city manager or his/her designee finds that any permittee or any other person discharging stormwater has violated or is violating this chapter or a permit or order issued hereunder, the city manager may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the city manager. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent orders. The city manager or his/her designee is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall

have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

(c) Show cause hearing. The city manager may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(d) Compliance order. When the city manager or his/her designee finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he/she may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(e) Cease and desist orders. When the city manager or his/her designee finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the city manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

- (i) Comply forthwith; or
- (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(3) Penalties. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the city manager or his/her designee, shall be guilty of a civil offense.

(4) Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the municipality declares that any person violating the provisions of this chapter may be assessed a civil penalty by the city manager or his/her designee of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(5) Measuring civil penalties. In assessing a civil penalty, the city manager or his/her designee may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary enforcement costs incurred by the municipality;
- (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(6) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the municipality may recover;

(a) All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.

(b) The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this section.

(7) Other remedies. The municipality may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(8) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

(9) Appeals. Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the board of appeals.

(a) Appeals to be in writing. The appeal shall be in writing and filed with the city recorder within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(b) Public hearing. Upon receipt of an appeal, the board of appeals shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the board of appeals shall be final.

(c) Appealing decisions of the board of appeals. Any alleged violator may appeal a decision of the board of appeals pursuant to the

provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #09-134, Aug. 2009)

CHAPTER 9

GREASE MANAGEMENT FOR FOOD SERVICE ESTABLISHMENTS

SECTION

- 18-901. Purpose.
- 18-902. Definitions.
- 18-903. General requirements.
- 18-904. Approved grease waste haulers.
- 18-905. Grease control equipment requirements.
- 18-906. New multi-unit (strip mall) facilities.
- 18-907. Variance to grease interceptor installation.
- 18-908. Approval of grease control equipment.
- 18-909. Grease control equipment sizing.
- 18-910. Grease interceptor design and installation.
- 18-911. Grease interceptor cleaning/maintenance requirements.
- 18-912. "Additives" prohibition for use as grease management and control.
- 18-913. Right of entry—inspection and monitoring.
- 18-914. Fee option.
- 18-915. Violations and enforcement action.

18-901. Purpose. This chapter sets forth requirements to aid in the prevention of sanitary sewer blockages, obstructions, and overflows due to the contribution and accumulation of fats, oils, and greases into said sewer system from commercial, industrial and institutional food service establishments. The objective is to reduce or eliminate sanitary sewer overflows onto streets, waterways, and onto residential and commercial properties and buildings that could result in liabilities to the city. (as added by Ord. #10-153, Nov. 2010)

18-902. Definitions. (1) "Black water" means wastewater containing human waste from sanitary fixtures such as toilets and urinals.

(2) "Brown grease" means fats, oils, and grease that is discharged to the grease control equipment.

(3) "City" shall mean the City of Lakeland or the city manager or designee.

(4) "FOG (Fats, Oils, and Grease)" means organic polar compounds derived from animal and/or plant sources. FOG may be referred to as "grease" or "greases" in this chapter.

(5) "Food Service Establishment (FSE)" means any establishment, business or facility engaged in preparing, serving or making food available for consumption. Single family residences are not an FSE, however, multi-residential facilities may be considered an FSE at the discretion of the city. Food service establishments will be 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 Industry Classification System (NAICS) 77213, Mobile Food Vendors as defined by NAICS 722330.

(b) Class 2: Limited-service restaurants (a.k.a. fast food facilities, daycares) as defined by NAICS 722211 and caterers as defined by NAICS 722320.

(c) Class 3: Full-service restaurants as defined by NAICS 722110.

(d) Class 4: Buffet and cafeteria facilities as defined by NAICS 72212.

(e) Class 5: Institutions (schools, hospitals, prisons, etc.) as defined by NAICS 722310 but not to exclude self-run operations.

(6) "Gray water" refers to all other wastewater other than black water as defined in this chapter.

(7) "Grease Control Equipment (GCE)" means a device for separating and retaining wastewater FOG prior to wastewater exiting the FSE and entering the city's sewer system. Devices include grease interceptors, grease traps, or other devices approved by the city.

(8) "Grease interceptor" means grease control equipment identified as a large tank, usually one thousand (1,000) gallon to three thousand (3,000) gallon capacity, which provides FOG control for an FSE. Grease interceptors will be located outside the FSE, unless a variance request has been granted.

(9) "Grease trap" means grease control equipment identified as an "under the sink" trap, a small container with baffles, or a floor trap. For an FSE approved to install a grease trap, the minimum size requirement is the equivalent of a twenty (20) gallon per minute/forty (40) pound capacity trap. All grease traps will have flow control restrictor and venting.

(10). "Grease recycle container" means a container used for the storage of yellow grease.

(11) "Series (grease interceptors installed in series)" means grease interceptor tanks are installed one after another in a row and are connected by plumbing pipe.

(12) "User" means a customer operating a food service establishment and discharging to the sanitary sewer system.

(13) "Yellow grease" means fats, oils and grease that have not been in contact or contaminated from other sources (water, wastewater, solid waste, etc.) and can be recycled. Yellow grease is normally stored in a grease recycle container or bin for beneficial reuse. (as added by Ord. #10-153, Nov. 2010)

18-903. General requirements. (1) All new and existing Food Service Establishments (FSEs) are required to have Grease Control Equipment (GCE)

installed, maintained and operating properly, in accordance with this FOG chapter.

(2) All FSEs will be required to maintain records of cleaning and maintenance of GCE. GCE maintenance records include, at a minimum, the date of cleaning/maintenance, company or person conducting the cleaning/maintenance, volume (in gallons) of grease wastewater removed and final disposal location.

(3) GCE maintenance records will be available at the FSE premises so they can be provided to the city and/or the health department. The FSE shall maintain GCE maintenance records for two (2) years.

(4) No FSE will discharge oil and grease in concentrations that exceed the city's numerical limit for oil and grease.

(5) Owners of commercial property will be held responsible for wastewater discharges from a leaseholder on their property.

(6) Grease control equipment certification requirement. All establishments with grease control equipment must have their grease interceptor or grease trap inspected and certified every two (2) years by a city "certified" grease waste hauler or plumber. If a grease interceptor or grease trap "passes" the certification requirement, then no further action is required. If a grease interceptor or grease trap "fails" the certification requirement, then a corrective action response is required from the FSE owner to the city within thirty (30) calendar days.

(7) FSEs shall dispose of yellow grease in an approved container or recycle container, and the contents shall not be discharged to any sanitary sewer line, stormwater grate, drain or conveyance. Yellow grease, or oils, poured or discharged into the FSE sewer lines or city's sewer system is a violation of this FOG chapter.

(8) It shall be a violation of this FOG chapter to push or flush the non-water portion of GCE into the public sewer. (as added by Ord. #10-153, Nov. 2010)

18-904. Approved grease waste haulers. To ensure proper disposal of the FOG waste, all grease waste haulers must operate trucks that are marked with a company name, phone number, waste hauler permit, number, city and state of legible size and color. The tank must also be marked with the company name and capacity of the tank in gallons. The hauler must provide proof upon request of the city that it is certified to operate in any of the surrounding communities in Shelby County. (as added by Ord. #10-153, Nov. 2010)

18-905. Grease control equipment requirements. (1) Any new FSE, existing FSE, upgrading of an existing FSE, or change of ownership of existing FSE will be required to install and maintain a grease interceptor.

(2) New construction of FSEs shall have separate sanitary (restroom) and kitchen process lines. The kitchen process lines shall be plumbed to

appropriately sized GCE. No sanitary wastewater or stormwater shall be plumbed to the GCE.

(3) All of the FSEs internal plumbing shall be constructed to separate sanitary (restroom) flow from kitchen process flow. Sanitary flow and kitchen process discharges shall be approved separately by the city and shall discharge from the building separately. Kitchen process lines and sanitary lines may combine prior to entering the public sewer; however, the lines cannot be combined until after the GCE.

(4) A grease interceptor or grease trap will be installed and connected so that it may be easily accessible for inspection, cleaning and removal of grease at any time.

(5) Existing food service establishments are required to install GCE and meet the FOG chapter requirements by January 1, 2013. Separate piping as specified under § 18-806 is not required. (as added by Ord. #10-153, Nov. 2010)

18-906. New multi-unit (strip mall) facilities. (1) New strip malls or strip centers must have two (2) separate sewer line connections at each unit within the strip mall or strip center. One (1) sewer line will be for sanitary wastewater and one (1) sewer line will be for the kitchen area, or potential kitchen area, of each unit. The kitchen area, or potential kitchen area, sewer line will be connected to floor drains in the specified kitchen area, and will connect, or be able to connect, to other food service establishment kitchen fixtures, such as a three (3) compartment sink, a two (2) compartment sink, a pre-rinse sink, a mop sink and/or a hand wash sink.

(2) Owners of a new multi-unit facility or new "strip mall" facility shall contact the city prior to conducting private plumbing work at the multi-unit facility site. Multi-unit facility owners or their designated contractor shall have plans for separate private wastewater lines for kitchen and sanitary wastewater for each "individual" unit. In addition, the plans shall identify "stub-out" locations to accommodate a minimum of one thousand (1,000) gallon grease interceptor for each unit of the multi-unit facility.

(3) FSEs located in a new multi-unit facility shall have a minimum of a one thousand (1,000) gallon grease interceptor installed, unless that FSE is identified as a Class 1 facility. Sanitary wastewater, or black water, shall not be connected to GCE. (as added by Ord. #10-153, Nov. 2010)

18-907. Variance to grease interceptor installation. At the discretion of the city engineer, an FSE may receive a variance from the required installation of a grease interceptor and sewer line piping. Variances will be limited to existing FSEs that have unusual physical location circumstances that will prevent the installation of a large grease interceptor or separate piping of sewer waste. Sizing of grease interceptors will be based on the standard

PDI-G101 of the Plumbing and Drainage Institute, simplified chart, wherever possible. (as added by Ord. #10-153, Nov. 2010)

18-908. Approval of grease control equipment. All existing FSEs that have upgraded their plumbing facilities must contact the city for final approval of the grease control equipment. This will include onsite inspection of the grease control equipment by the city. (as added by Ord. #10-153, Nov. 2010)

18-909. Grease control equipment sizing. (1) Minimum acceptable size of grease control equipment for each FSE classification will be as follows:

(a) Class 1: Deli, ice cream shops, beverage bars, mobile food vendors – twenty (20) gpm/forty (40) pound grease trap (NAICS 72213, 72233).

(b) Class 2: Limited-service restaurants/cafeterias/daycares – one thousand (1,000) gallon grease interceptor (NAICS 722211, 722320).

(c) Class 3: Full service restaurants – one thousand (1,000) gallon grease interceptor (NAICS 722110).

(d) Class 4: Buffet and cafeteria facilities – one thousand five hundred (1,500) gallon grease interceptor (NAICS 72212).

(e) Class 5: Institutions (schools, hospitals, prisons, etc.) – two thousand (2,000) gallon grease interceptor (NAICS 722310).

(2) To calculate the appropriate size GCE, the FSE's engineer, architect or contractor should use a formula that considers fixture units, storage capacity, type of facility and an adequate retention time. The grease control equipment minimum acceptable size for the above listed FSE classification (Class 1 through 5) must be met.

(3) The city will review and approve of the GCE sizing received from the FSE's engineer, architect or contractor. The city will make a decision to approve or require additional grease interceptor volume based on the type of FSE, the number of fixture units, and additional calculations. Grease interceptor capacity should not exceed three thousand (3,000) gallons for each interceptor tank. In the event that the grease interceptor calculated capacity needs to exceed three thousand (3,000) gallons, the FSE shall install an additional interceptor of the appropriate size. If additional interceptors are required, they shall be installed in series.

(4) Grease interceptors that are installed in series shall be installed in such a manner to ensure positive flow between the tanks at all times. Therefore, tanks shall be installed so that the inlet invert of each successive tank shall be a minimum of two inches (2") below the outlet invert of the preceding tank.

(5) Grease control equipment must remove fats, oils, and grease at or below the city limit of one hundred (100) mg/L. (as added by Ord. #10-153, Nov. 2010)

18-910. Grease interceptor design and installation. (1) Access openings (manholes). (a) Access to grease interceptors shall be provided by a minimum of one (1) manhole per interceptor division (baffle chamber) and of twenty-four inch (24") minimum dimensions terminating one inch (1") above finished grade with cast iron frame and cover. An eight inch (8") thick concrete pad extending a minimum of twelve inches (12") beyond the outside dimension of the manhole frame shall be provided. One (1) manhole shall be located above the inlet tee hatch and the other manhole shall be located above the outlet tee hatch. A minimum of twenty-four inches (24") of clear opening above each manhole access shall be maintained to facilitate maintenance, cleaning, pumping, and inspections.

(b) Access openings shall be mechanically sealed and gas tight to contain odors and bacteria and to exclude vermin and ground water in a manner that permits regular reuses.

(c) The manholes are to be accessible for inspection by the city.

(2) Additional requirements. (a) Water tight. Precast concrete grease interceptors shall be constructed to be watertight. A static water test shall be conducted by the installer and timed so as to permit verification through visual inspection by regulatory agent. The water test shall consist of plugging the outlet (and the inlet if necessary) and filling the tank(s) with water to the tank top a minimum of twenty-four (24) hours before the inspection. The tank shall not lose water during this test period. Certification by the plumbing contractor shall be supplied to the city prior to final approval of grease control equipment.

(b) Location. Grease interceptors shall be located so as to be readily accessible for cleaning, maintenance, and inspections. They should be located close to the fixture(s) discharging the greasy waste stream. If possible, grease interceptors should not be installed in "drive-thru" lanes or a parking area. Grease interceptor access manholes shall never be passed over.

(c) Responsibility. Removal of the grease from the wastewater routed to a public or private sanitary system is the responsibility of the user/owner.

(d) Construction material. Grease interceptors shall be constructed of sound durable materials, not subject to excessive corrosion or decay, and shall be water and gas tight. Each interceptor shall be structurally designed to withstand any anticipated load to be placed on the interceptor (i.e. vehicular traffic in parking or driving areas). Note: Concrete materials and other grease interceptor materials shall meet the American National Standards Institute, Inc. (ANSI) and International Association of Plumbing and Mechanical Officials (IAPMO) standards.

(e) Marking and identification. Prefabricated gravity grease interceptors shall be permanently and legibly marked with the following:

- (i) Manufacturer's name or trademark, or both;
- (ii) Model number;
- (iii) Capacity;
- (iv) Month and year of manufacture;
- (v) Load limits and maximum recommended depth of earth cover in feet;
- (vi) Inlet and outlet. (as added by Ord. #10-153, Nov. 2010)

18-911. Grease interceptor cleaning/maintenance requirements.

(1) Partial pump of interceptor contents or onsite pump and treatment of interceptor contents will not be allowed due to reintroduction of fats, oils and grease to the interceptor and pursuant to Lakeland Municipal Code chapter 4, title 18, Sewer Use and Wastewater Treatment and as referenced in the Code of Federal Regulations (CFR) § 403.5 (b)(8), which states "Prohibited discharges. No persons shall discharge or cause or allow to be discharged or deposited into the city's wastewater system any wastewater that contains the following: any trucked or hauled pollutants, except at discharge points designated and approved by the city."

(2) Grease interceptors must be pumped-in-full (total pump of all contents) when the total accumulations of surface FOG (including floating solids) and settled solids reach twenty-five percent (25%) of the grease interceptor's overall liquid depth. This criterion is referred to as the "25 percent rule." At no time shall the cleaning frequency exceed ninety (90) days unless approved by the city. Approval will be granted on a case by case situation with submittal by the FSE documenting proof of proposed frequency. Some existing FSEs in Class 2 through 5 will need to consider a pumping schedule of thirty (30) or sixty (60) days to meet this requirement.

(3) The grease interceptor effluent-T will be inspected during cleaning and maintenance, and the condition noted by the grease waste hauler's company or individual conducting the maintenance. Effluent-Ts that are loose, defective, or not attached must be repaired or replaced immediately. Any repairs to the grease interceptor should be documented and kept on file at the FSE.

(4) Grease interceptors must have access manholes over the influent-T and effluent-T for inspection and ease of cleaning/maintenance. Access manholes will be provided for all separate compartments of interceptors for complete cleaning (i.e. interceptor with two (2) main baffles or three (3) compartments will have access manholes at each compartment).

(5) Grease interceptor waste must be hauled offsite and disposed at a state or POTW approved disposal location. (as added by Ord. #10-153, Nov. 2010)

18-912. "Additives" prohibition for use as grease management and control. (1) Additives include but are not limited to products that contain solvents, emulsifiers, surfactants, caustics, acids, enzymes and bacteria.

(2) Use of biological additives is discouraged. Any additive placed into the grease trap or building discharge designed to absorb, purge, consume, treat or otherwise eliminate grease shall require written approval by the grease management coordinator. If the city identifies FOG in the downstream sewer system from an FSE that is using an additive, then the city may require the FSE to discontinue use of the additive.

(3) Additive use will not be a substitute for regular, required cleaning or pumping of grease control equipment.

(4) This FOG chapter prohibits the use of chemicals, acids, caustics, enzymes, hot water, emulsifiers, surfactants, or other additives to cause oil or grease to pass through the user's grease trap or grease interceptor designed to remove oil and grease. (as added by Ord. #10-153, Nov. 2010)

18-913. Right of entry—inspection and monitoring. The city shall have the right to enter the premises of FSEs to determine whether the FSE is complying with the requirements of this FOG chapter. FSEs shall allow city personnel or their authorized representative, upon presentation of proper credentials, full access to all parts of the premises for the purpose of inspection, monitoring, and/or records examination. Unreasonable delays in allowing city personnel access to the FSE premises shall be a violation of this FOG chapter and the city sewer use ordinance. All grease interceptors/traps shall be subject to review, evaluation and inspection by the city personnel during normal working hours. Inspections will determine proper maintenance, changes in operation, proper records and files, ability of interceptor to trap and prevent grease from entering the system and any other factors pertaining to grease management. The city reserves the right to make determinations of interceptor/trap condition and adequacy based on review of all information regarding the interceptor/trap performance and may require cleaning, maintenance, modification or replacement. All records will be available onsite for review by the city for a period of thirty-six (36) months. The city may require that the FSE install monitoring or additional pretreatment equipment deemed necessary for compliance with this FOG chapter and or the city sewer use ordinance. (as added by Ord. #10-153, Nov. 2010)

18-914. Fee option. The city may charge inspection, monitoring, assessment, impact, surcharge and/or permit fees to food service establishments for reimbursement of the cost to administer this FOG regulatory program. Any associated fees will be listed in the Lakeland Fee Schedule. (as added by Ord. #10-153, Nov. 2010)

18-915. Violations and enforcement action. (1) Violations of this FOG regulatory program include, but are not limited to, failure to clean or pump grease control equipment, failure to maintain grease control equipment including installation of properly functioning effluent-T and baffles, failure to install grease control equipment, failure to control FOG discharge from the FSE, failure to certify the grease interceptor or trap, being responsible for sewer line obstruction, being responsible for a sanitary sewer overflow, and using additives so that FOG is diluted or pushed downstream of the FSE.

(2) Whenever the city determines that a grease interceptor or trap is in need of installation, pumping, repairs, maintenance or replacement, a noncompliance notification or a Notice of Violation (NOV) will be issued stating the nature of the violation(s) and timeframe for corrective measures.

(3) If the facility fails to initiate action in response to a noncompliance notification or NOV, a second notice will be issued and additional fees assessed. Fees may include costs associated with service calls for sewer line blockages, line cleaning, camera trucks, line and pump repairs, including all labor, material and equipment. Further noncompliance will result in the discontinuance of the facility's water service.

(4) Immediate discontinuance of water may be requested by the city to Memphis Light Gas and Water if the facility presents an imminent endangerment to the health or welfare of persons or to the public or to the environment, or causes stoppages or excessive maintenance to the sanitary sewer system, causes significant interference with the wastewater treatment plant, or causes the city to violate any condition of its NPDES permit. Service shall be reinstated when such conditions have been eliminated as determined by the city.

(5) If inspections and field investigations determine that any fats, oils and grease interference or blockage in the sewer system, a sewage pumping station, or the wastewater treatment plant is caused by a particular food service establishment, then that food service establishment shall reimburse the city for all labor, equipment, supplies and disposal costs incurred by city to clean the interference or blockage. The charges will be added to the FSEs water/wastewater bill. Failure to reimburse the city may result in termination of water service. (as added by Ord. #10-153, Nov. 2010)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY AND GAS.

CHAPTER 1

ELECTRICITY AND GAS¹

SECTION

19-101. Operation of system by City of Memphis.

19-102. Covenant with City of Memphis.

19-103. To be furnished by the Memphis, Light, Gas and Water Division
(MLG&W)

19-101. Operation of System by City of Memphis. The consent of the Board of Commissioners is given to the operation of its electric plant or system by the City of Memphis, or any agency thereof having jurisdiction, control and management of its electric plant or system, within the corporate limits of Lakeland; and consent be and the same is hereby given to the operation of its gas plant or system by the City of Memphis, or any agency thereof having jurisdiction, control and management of its gas plant or system, within the corporate limits of Lakeland. (1989 Code, § 13-301)

19-102. Covenant with City of Memphis. The board of commissioners hereby covenant with the City of Memphis that, so long as the City of Memphis, or any agency thereof having jurisdiction control and management of its electric plant or system, shall continue to distribute, supply and sell electric power and energy within the corporate limits of Lakeland, no franchise, right or privilege will be granted to any other person, firm, corporation or agency for the manufacture, distribution, supply or sale of electric power and energy within the corporate limits of Lakeland; and further covenant that so long as the City of Memphis, or any agency thereof having jurisdiction, control and management of its gas plant or system, shall continue to supply, distribute and sell natural or artificial gas within the corporate limits of Lakeland, no franchise, right or privilege will be granted to any other person, firm, corporation or agency to supply, distribute or sell natural or artificial gas within the corporate limits of Lakeland; provided, however, that the Board of Commissioners expressly

¹Municipal code reference

Building, utility, etc. codes: title 12.

reserve the right to acquire or construct and to maintain and operate an electric plant or system or gas plant or system, or both, to supply and distribute electric power and energy or natural or artificial gas, or both, within the corporate limits of Lakeland including, without limitation by reason of enumeration, the right to contract with Tennessee Valley Authority for the purchase of electric power and energy. (1989 Code, § 13-302)

19-103. To be furnished by the Memphis Light, Gas and Water Division (MLG&W).¹ Electricity and gas shall be furnished for the City of Lakeland and its inhabitants by the Memphis Light, Gas and Water Division (MLG&W). (1989 Code, § 13-303)

¹The agreements are of record in the office of the city recorder.

TITLE 20**MISCELLANEOUS****CHAPTER**

1. CITY OF LAKELAND, TENNESSEE--AIR POLLUTION CONTROL CODE.
2. [DELETED.]
3. LOCAL EMERGENCY POWER ORDINANCE.
4. MISCELLANEOUS.
5. RULES FOR UTILIZATION OF CITY PARKS.

CHAPTER 1**CITY OF LAKELAND, TENNESSEE--AIR
POLLUTION CONTROL CODE****SECTION**

- 20-101. Words and phrases substituted in state regulations adopted by reference.
- 20-102. Open burning.
- 20-103. Severability of parts of articles.
- 20-104. Enforcement – violations of chapter – notice; citation; injunctive relief.
- 20-105. Enforcement penalties – misdemeanor, civil, and noncompliance.
- 20-106. Enforcement – variances.
- 20-107. Enforcement – emergency powers of health officer.
- 20-108. Air pollution control hearing board – created; membership; term of office; jurisdiction; hearings; appeals.
- 20-109. Nuisance abatement.
- 20-110. Fugitive dust.
- 20-111. Permits and fees – applicability and enforcement authority.
- 20-112. Permits and fees – permit fee schedule.
- 20-113. Permits and fees – emissions fee for stationary sources.
- 20-114. Permits and fees – payment of fees.
- 20-115. Permits and fees – allowable uses for emissions fee.
- 20-116. Permits and fees – reporting requirements.
- 20-117. Permits and fees – small business waiver.
- 20-118. Permits and fees – surplus funds carry forward.
- 20-119. Permits and fees – penalty provisions.
- 20-120. Permits and fees – annual review of fee structure and financial need.
- 20-121. Severance.
- 20-122. Regulation of particulate matter from incinerators.
- 20-123. Right of entry.
- 20-124. Adoption of rules and regulations by reference; section nomenclature.

20-125. Modifications.

20-101. Words and phrases substituted in state regulations adopted by reference. (1) For the purpose of enforcement of the City of Lakeland, Tennessee – Air Pollution Control Code, the following shall apply:

(a) Wherever the terms Air Pollution Control Board of the State of Tennessee, Tennessee Air Pollution Control Board, or board appear, they shall be replaced by Memphis and Shelby County Air Pollution Control with the following exceptions:

- | | | |
|-------|-----------|--------------------------|
| (i) | 20-1(109) | 1200-3-9-.04 |
| (ii) | 20-1(107) | 1200-3-7-.06 |
| (iii) | 20-1(106) | 1200-3-6-.01 |
| (iv) | 20-1(114) | 1200-3-14-.01(1)(a), and |
| (v) | 20-1(111) | 1200-3-11-.01(1) |

(b) Wherever the terms Tennessee, State of Tennessee, or state appear, they shall be replaced by City of Lakeland with the following exceptions:

- | | | |
|-------|---|---------------------|
| (i) | 20-1(109) | 1200-3-9-.04 |
| (ii) | 20-1(114) | 1200-3-14-.01(1)(a) |
| (iii) | When referring to Tennessee Code Annotated, and | |
| (iv) | When referring to the Tennessee Air Quality Act | |

(c) Wherever the terms Technical Secretary of the Tennessee Air Pollution Control Board, technical secretary, or secretary appear, they shall be replaced by health officer except in subparagraphs 20-105 (5)(b)(i) and (ii) for the purposes of Tennessee Code Annotated, § 68-201-116(b)(1).

(d) Wherever the terms "Department of Environment and Conservation of the State of Tennessee," "Tennessee Department of Environment and Conservation," or "department" appear, they shall be replaced by "Memphis and Shelby County Health Department."

(e) Wherever the terms Tennessee Air Pollution Control, Division of Air Pollution Control, or division appear, they shall be replaced by Memphis and Shelby County Health Department, Air Pollution Control Section.

(f) Wherever the terms Tennessee Air Pollution Control Regulations or regulations appear, they shall be replaced by City of Lakeland, Tennessee – Air Pollution Control Code.

(g) Wherever the term Nashville office appears, it shall be replaced by Memphis and Shelby County Health Department.

(h) Wherever the term "state civil defense" appears, it shall be replaced by "Memphis and Shelby County Emergency Management Agency."

(i) Wherever the terms "chapter 1200-3-26," "rule 1200-3-26-.02" or other citations involving "1200-3-26" appear, they shall be replaced by §§ 20-111 – 20-121. (1989 Code, § 8-601, as replaced by Ord. #03-39, June 2003)

20-102. Open burning. (1) No person shall cause, suffer, allow or permit open burning of refuse, garbage, trade waste, trees, limbs, brush, or materials from salvage operations. The open burning of tires and other rubber products, vinyl shingles and siding, other plastics, asphalt shingles and other asphalt roofing materials, and/or asbestos containing materials is expressly prohibited, and such materials shall not be lawful in any open burning conducted under the provisions of § 20-102.

(2) Open burning as listed below may be conducted without permit subject to fire department approval and provided further that no public nuisance is or will be created by the open burning.

(a) Fires used for the cooking of food or for ceremonial, recreational or comfort-heating purposes including barbecues and outdoor fireplaces. This exception does not include commercial food preparation facilities and their operation.

(b) Fires set for the training and instruction of firemen or for research in fire protection or prevention. However, routine demolition of structures via supervised open burning by responsible fire control persons will not be considered fire training. Additionally, the person responsible for such burning, unless conducted at a recognized fire training academy, must certify compliance with the following requirements by written statement. The certification must be delivered to the Pollution Control Section of the Memphis-Shelby County Health Department (department) at least ten (10) working days prior to commencing the burn:

(i) The open burning is being conducted solely for fire training purposes.

(ii) All vinyl siding, carpet, vinyl flooring, asphalt roofing materials, and any other materials expressly prohibited in subsection 20-102(1), have been removed.

(iii) All regulated asbestos containing materials have been removed in accordance with section 20-1(111) [Reference 1200-3-11-.02(2)(d)3.(x)].

(iv) A traffic hazard will not be caused by the air contaminants generated by the fire training.

(v) A public nuisance will not be created by the open burning.

(c) Smokeless flares or safety flares for the combustion of waste gases provided other applicable paragraphs of this section are met.

(d) Reserved.

(e) Fire used for carrying out recognized agricultural procedures necessary for the production or harvesting of crops or for the control of diseases or pests, in accordance with practices acceptable to the department.

(f) Fires for the burning of bodies of dead animals, including poultry, where no other safe and/or practical disposal method exists.

(3) Exceptions to paragraph (1) may be permitted for vegetation if all of the following conditions are met when an air curtain destructor is used:

(a) A request is filed with the health officer giving the reason why no method except open burning can be employed to dispose of the material involved, the amount and kind of material to be burned, the exact location where the burning will take place, and the dates when the open burning will be done. All changes in type of, or increase in quantities of, materials burned must be preceded by notification. The notification must be delivered to the department at least ten (10) working days prior to commencing the change in the burn.

(b) The person applying for the permit certifies, by written statement, compliance with following distance requirements, at a minimum:

(i) The open burning site must be at least five hundred (500) feet from any federal and from any state highway; and

(ii) The open burning site must be at least one thousand (1,000) feet from any school, national or state park, national reservation, national or state forest, wildlife area, and/or residence not on the same property as the air curtain destructor; and

(iii) The open burning site must be at least on-half ($\frac{1}{2}$) mile from any airport, nursing home or hospital.

(c) The plume from the air curtain destructor must meet the visible emission standards specified in section 20-1(105) [Reference 1200-3-5-.01(1)]; however, for certain materials the department may allow one start-up period in excess of the standard, per day, not to exceed 20 minutes in 24 hours.

(d) All material to be burned must be dry and in other respects be in a state to sustain good combustion. Open burning must be conducted when ambient conditions are such that good dispersion of combustion products will result. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils.

(e) No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn. No fire shall be ignited during any exceedance of the National Ambient Air Quality Standard for ozone, oxides of nitrogen, carbon monoxide, or particulate matter. Permittee is required to contact the department's Computerized Local Air Index Reporting system (CLAIR) recorded line at (901) 544-7489 or 544-7490 before igniting a fire to determine if it is a burning day or a no-burning day.

(f) Approval is received from the health officer in writing.

(g) Permission is secured from the fire department in the jurisdiction involved.

(h) The burning will be done between the hours of 9:00 AM and 4:00 PM or as authorized by the health officer.

This approval will not relieve the person responsible for such burning from the consequences of any damages, injuries, or claims resulting from such burning.

(4) Definitions. (a) "Air curtain destructor" is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a burn chamber with vertical walls in such a manner as to maintain a curtain of air over the surface of the burn chamber and a recirculating motion of air under the curtain. The use of an air curtain destructor is considered controlled open burning.

(b) "Air pollution emergency episode" is defined as air pollution alerts, warnings, or emergencies declared by the health officer during adverse air dispersion conditions that may result in harm to public health or welfare.

(c) "Natural disaster" is defined as any event commonly referred to as an "Act of God" and includes but is not limited to the following weather related or naturally occurring categories of events: tornadoes, hail and wind storms, snow or ice storms, flooding and earthquakes.

(d) "Open burning" is the burning of any matter under such conditions that products of combustion are emitted directly into the open atmosphere without passing directly through a stack.

(e) "Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, an agency, authority, commission, or department of the United States government, or of the State of Tennessee government; or any other legal entity, or its legal representative, agent, or assigns.

(5) Burning after natural disasters.

(a) Open burning of materials resulting from a natural disaster, and when conducted in conformity with the following conditions, may be permitted:

(i) Fires disposing of structural and household materials and vegetation are allowed only when those structures or materials are destroyed or severely damaged by natural disaster. Input from emergency management personnel may be requested in determining qualification with this criteria. The provisions of this section pertaining to structural and household materials may be waived if the persons seeking to open burn under this provision make a reasonable effort to remove all expressly prohibited material from the structural remains before ignition. The department reserves the right to inspect the proposed materials to be burned before ignition. The alternative use of chippers and grinders, landfilling, or on-site burial of waste in lieu of burning, if lawful, is encouraged.

(ii) If a governmental collective burn site for disposing of structural and household materials and vegetation damaged by a natural disaster is planned, the person responsible for such burning must notify the department of the proposed location. The notification must be delivered to the department at least three (3) days prior to commencing the burn. The department may request that alternate sites be identified to minimize impact to air quality. The alternative use of chippers and grinders in lieu of burning is encouraged.

(iii) A traffic hazard shall not be caused by the air contaminants generated by the fire.

(iv) No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn. No fire shall be ignited during any exceedance of the National Ambient Air Quality Standard for ozone, oxides of nitrogen, carbon monoxide, or particulate matter. Contact the department's Computerized Local Air Index Reporting system (CLAIR) recorded line at (901) 544-7489 or 544-7490 before igniting a fire to determine if it is a burning day or a no-burning day.

(v) Open burning conducted under this exception is only allowed where no other safe and/or practical means of disposal is available.

(b) The health officer reserves the right to require a person to cease or limit open burning if emissions from the fires are deemed by the health officer or his designee to jeopardize public health or welfare, create a public nuisance or safety hazard, create a potential safety hazard, or interfere with the attainment or maintenance of the air quality standards.

(c) Any exception to the open burning prohibition granted by this section does not relieve any person of the responsibility to obtain a permit required by any other agency, or of complying with other applicable requirements, ordinances, or restrictions. [Particular attention is directed to Tennessee Code Annotated, § 39-14-306, which prohibits open air fires between October 15 and May 15 within five hundred (500) feet of any forest, grasslands or woodlands without first securing a permit from the state forester in unincorporated portions of Shelby County.] (1989 Code, § 8-602, as replaced by Ord. #03-39, June 2003)

20-103. Severability of parts of articles. The provisions of this air pollution control code are hereby declared to be severable, and if any sections, provisions, clauses, or parts be held unconstitutional or void, then the remainder of this air pollution control code shall continue in full force and effect, it being the legislative intent that this air pollution control code would have been

adopted even if such unconstitutional or void matter had not been included therein. (1989 Code, § 8-603, as replaced by Ord. #03-39, June 2003)

20-104. Enforcement – violations of chapter – notice; citation; injunctive relief. (1) Whenever evidence has been obtained or received establishing that a violation of this code has been committed, the health officer shall issue a notice to correct the violation or a citation to cease the violation. Such notice or citation shall briefly set forth the general nature of the violation and specify a reasonable time within which the violation shall be rectified or stopped. If the violation is not corrected within the time so specified, or the violation stopped, or reasonable steps taken to rectify the violation, the health officer shall have the power and authority to issue an order requiring the violator to cease or suspend operation of the facility causing the violation until the violation has been corrected, or initiate proceedings to prosecute the violator for violation of this code.

(2) In the event any person fails to comply with a cease or suspend operation order, that is not subject to a stay pending administrative or judicial review, the health officer shall institute proceedings in a court of competent jurisdiction for injunctive relief to enforce the regulations or orders pursuant hereto. (as added by Ord. #03-39, June 2003)

20-105. Enforcement penalties – misdemeanor, civil, and noncompliance. (1) Failure to comply with any of the provisions of the City of Lakeland, Tennessee – Air Pollution Control Code shall constitute a violation thereof and shall subject the person or persons responsible therefore to any and all of the penalties provided by law.

(2) The Memphis-Shelby County Health Department in conjunction with the local air pollution control board shall have authority, at their option, to institute and litigate proceedings for violations as set out therein. Any person who knowingly:

(a) Violates or fails to comply with any provision of the City of Lakeland, Tennessee – Air Pollution Control Code, any board or administrative order or any permit condition;

(b) Makes any false material statement, representation, or certification in any record, report, plan or other document required by permit to be either filed or maintained;

(c) Falsifies, tampers with, renders inaccurate or fails to install any monitoring device or method required to be maintained or followed; or

(d) Fails to pay a fee commits a Class C misdemeanor pursuant to the Tennessee Code Annotated with the fine not to exceed ten thousand dollars (\$10,000) per day per violation. For the purpose of this section, each day of continued violation constitutes a separate offense and is punishable as such.

No warrant, presentment or indictment arising under subsection 20-105(2) shall be issued except upon application, authorized in writing, by the health officer on behalf of the local air pollution control program operating under a certificate of exemption pursuant to Tennessee Code Annotated, § 68-201-115, for a violation within its jurisdiction.

(3) Willful and knowing violation of any provision of the City of Lakeland, Tennessee – Air Pollution Control Code is declared to be a misdemeanor, and each day of violation shall constitute a separate offense. Conviction of a misdemeanor is punishable with the fine not to exceed ten thousand dollars (\$10,000) per day per violation or with imprisonment not greater than thirty (30) days, or both.

(4) In addition and supplemental to any criminal action which may be prosecuted under this section, the health officer has and is vested with jurisdiction and authority to determine whether or not any provision of the City of Lakeland, Tennessee – Air Pollution Control Code, any permit condition, or any order has been violated, and whether or not such violation constitutes a public nuisance. Upon such finding that a public nuisance exists, the health officer has authority to abate any such public nuisance in the manner provided by the general law relating to the abatement of public nuisances.

(5) Orders and assessments of damages and civil penalties and appeals.

(a) When the health officer discovers that any provision of the City of Lakeland, Tennessee – Air Pollution Control Code has been violated, the health officer may issue an order for correction to the responsible person, and this order shall be complied with within the time limit specified in the order. Such order shall be served by personal service or sent by certified mail, return receipt requested. The recipient of such an order may appeal in the same manner as with an assessment of damages or civil penalty under paragraph (b).

(b) (i) In addition to the criminal penalties in this section, any person who violates or fails to comply with any provision of the City of Lakeland, Tennessee – Air Pollution Control Code or any standard adopted pursuant thereto in a permit, shall be subject to a civil penalty of up to twenty-five thousand dollars (\$25,000) per day for each day of violation. Any person against whom an assessment in excess of ten thousand dollars (\$10,000) for each violation has been issued by a local pollution control program pursuant to this section may petition the technical secretary for de novo review of the assessment under the provisions of Tennessee Code Annotated, § 68-201-116. The technical secretary shall render an initial determination, and that initial determination may be appealed to the Tennessee Air Pollution Control Board pursuant to this section. Each day such violation continues constitutes a separate punishable offense, and such person shall also be liable for any damages to the municipality resulting therefrom.

(ii) Any civil penalty or damages shall be assessed in the following manner:

(A) The health officer on behalf of the Memphis-Shelby County Health Department operating under a certificate of exemption pursuant to Tennessee Code Annotated, § 68-201-115 may issue an assessment against any person responsible for the violation or damages. Such person shall receive notice of such assessment by certified mail, return receipt requested;

(B) Any person against whom an assessment has been issued may appeal the assessment by filing a petition for review with the health officer, or with the technical secretary of an assessment in excess of \$10,000 for each violation, within thirty (30) days after receipt of the assessment, setting forth the grounds and reasons for such person's objections and requesting a hearing on the matter; and

(C) If a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final.

(iii) In assessing such civil penalty, the factors specified in Tennessee Code Annotated, § 68-201-106 and title 42 U.S.C. § 7413 and § 7420 may be considered. Damages to the state or to the City of Lakeland may include any expenses incurred in investigating the enforcing of this section; in removing, correcting, or terminating the effects of air pollution; and also compensation for any expense, loss or destruction of plant or animal life or any other actual damages or clean-up expenses caused by the pollution or by the violation. The plea of financial inability to prevent, abate or control pollution by the polluter or violator shall not be a valid defense to liability for violations of the provisions of the City of Lakeland, Tennessee – Air Pollution Control Code.

(iv) The issuance of an order or assessment of civil penalty by the Memphis-Shelby County Health Department operating under a certificate of exemption as provided for in this section is intended to provide additional and cumulative remedies to prevent, abate and control air pollution in Tennessee. Nothing herein shall be construed to preempt, supersede, abridge or otherwise alter any rights, action or remedies of the technical secretary, Tennessee Air Pollution Control Board or Commissioner of the Tennessee Department of Environment and Conservation.

(v) (A) Whenever any order or assessment under this section has become final, a notarized copy of the order or

assessment may be filed in the office of the clerk of the chancery court of Shelby County if the final order or assessment is from the Memphis-Shelby County Health Department.

(B) When filed in accordance with clause (v)(A), a final order or assessment shall be considered as a judgment by consent of the parties on the same terms and conditions as those recited therein. Such judgment shall be promptly entered by the court. Except as otherwise provided in this section, the procedure for entry of the judgment and the effect thereof shall be the same as provided in title 26, chapter 6, Tennessee Code Annotated.

(C) Within forty-five (45) days after entry of a judgment under clause (v)(B), any citizen of the City of Lakeland shall have the right to intervene on the ground that the penalties or remedies provided are inadequate or are based on erroneous findings of facts. Upon receipt of a timely motion to intervene, the court shall determine whether it is duplicitous or frivolous, and shall notify the movant and the parties of its determination. If the motion is determined not to be duplicitous or frivolous, all parties shall be considered to have sought review of the final order or assessment, and the court shall proceed in accordance with Tennessee Code Annotated, § 4-5-322. If no timely motion to intervene is filed, or if any such motion is determined to be duplicitous or frivolous, the judgment shall become final forty-five (45) days after the date of entry.

(D) A final judgment under this subparagraph has the same effect, is subject to the same procedures, and may be enforced or satisfied in the same manner, as any other judgment of a court of record of this state. (as added by Ord. #03-39, June 2003)

20-106. Enforcement – variances. (1) Any person who owns or is in control of any plant, building, structure, establishment, process or equipment including a group of persons who own or control like processes or like equipment may apply to the air pollution control hearing board, hereinafter referred to as "the board", for a variance from rules or regulations governing the quality, nature, duration or extent of discharge of air contaminants. The application for a variance shall include information and data sufficient for the board to make the findings required below. The hearing held hereunder shall be conducted in accordance with the rules of evidence as set forth in subsection 20-108(6) of the City of Lakeland, Tennessee – Air Pollution Control Code. The board may grant such variance, but only after public hearing on due notice and subject to the

certificate of exemption issued pursuant to Tennessee Code Annotated, § 68-201-115 if it finds that:

(a) The emissions proposed to occur as a result of a variance would not endanger or tend to endanger human health, safety, or welfare, and would not cause or tend to cause property damage; and

(b) Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public or a variance is needed only until a rule adopted by the Tennessee Air Pollution Control Board becomes state effective. If economic hardship is claimed, a description of expected monetary losses shall be included.

(2) No variance shall be granted or denied pursuant to this section until the board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and others who may be affected by granting or denying a request for variance.

(3) Any variance or renewal thereof shall be granted within the requirements of subsection (1) for time periods and under conditions consistent with the reasons therefore, and with the following limitations:

(a) If the variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement, or control of the air pollution involved, the variance shall be permitted only until the necessary means for prevention, abatement, or control become known and available, and the variance shall be subject to the taking of any substitute or alternate measures that the board may prescribe.

(b) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in view of the board, is requisite for the taking of necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable and submittal of proof that such timetable is being met.

(c) Any variance or renewal granted shall be for a time period not to exceed one (1) year.

(4) Any variance granted pursuant to this section may be renewed by the air pollution control hearing board on terms and conditions and for periods which would be appropriate on initial granting of the variance following the same procedures required for issuance of the initial variance. If complaint is made to the board on account of the variance, no renewal thereof shall be granted, unless, following public hearing on the complaint, the board finds that renewal is justified. No renewal shall be granted except on application therefore. Any such application shall be made at least sixty (60) days prior to

the expiration of the variance. Immediately upon a receipt of an application for renewal, the board shall give public notice of such application in accordance with rules and regulations of the board.

(5) A variance or renewal shall not be a right of the applicant or holder thereof, but shall be in the discretion of the board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the board may obtain judicial review thereof only in a court of competent jurisdiction.

(6) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of Sections 20-107 and 20-1(115) [Reference 1200-3-15] to any person or his property. (as added by Ord. #03-39, June 2003)

20-107. Enforcement – emergency powers of health officer.

(1) Any other provisions of the law notwithstanding, if the health officer finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the health officer shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants. Upon issuance of any such order, the health officer shall fix a place and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the air pollution control hearing board. Such hearing shall be held in conformity with the provisions of § 20-108, insofar as applicable. Not more than twenty-four (24) hours after the commencement of such hearing, and without adjournment thereof, the air pollution control hearing board shall affirm, modify or set aside the order of the health officer.

(2) In the absence of a generalized condition of air pollution of the type referred to in subsection (1) of this section, but if the health officer finds that emissions from the operation of one or more air contaminant sources is causing imminent danger to human health or safety, he may order the person responsible for the operation in question to reduce or discontinue operations immediately, without regard to the provisions of this chapter. In such event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in subsection (1) of this section shall apply. (as added by Ord. #03-39, June 2003)

20-108. Air pollution control hearing board-created; membership; term of office; jurisdiction; hearings; appeals. (1) There is hereby created the Memphis and Shelby County Air Pollution Control Board, hereinafter referred to as "the board" to be composed of nine members to be appointed as described in (a) and (b) below. No member of the board shall hold any elective office or receive any governmental salary except as a member of the faculty or staff of a school in the Tennessee education system. Otherwise, all members

shall serve without compensation. Any member of the board who has any conflict of interest or potential conflict of interest shall make adequate disclosure of it and abstain from matters related to it.

(a) Eight (8) members of the board are to be appointed jointly by the Mayor of the City of Memphis and the Mayor of Shelby County and confirmed by both the Memphis City Council and the Shelby County Board of Commissioners. These eight members shall consist of the following: One professional engineer knowledgeable in the field of air pollution control, one physician licensed to practice in Tennessee, one attorney licensed to practice law in Tennessee, one member of academia, a representative of industry at large, and such other citizen members as may be appointed, except that industry may have no more than two representatives.

(b) One member of the board is to be appointed by the Executive Committee of the Memphis Area Association of Governments. This member is to be a representative for the municipalities of Arlington, Bartlett, Collierville, Germantown, Lakeland, and Millington and is to be a citizen of one of these communities.

(2) The terms of the members shall be four years except that of the initially appointed members, of which three shall serve for four years, two shall serve for three years, two shall serve for two years and two shall serve for one year as designated time of appointment. Whenever a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as the original appointment. Should the term of any board member expire without a replacement member being appointed, the existing member shall continue to hold the board membership until such appointment or reappointment occurs.

(3) The board shall select annually a chairman from among its members. The board shall hold at least four regular meetings each year and such additional meetings as the chairman deems necessary. All hearings conducted by the board shall be open to the public. The health director shall act as secretary to the board and shall keep records of its hearing and other official actions. All hearings shall be held before not less than a majority of the board.

(4) The board is hereby vested with the following jurisdiction and authority:

(a) Grant, deny or revoke variance applications.

(b) To decide appeals from any decisions, rulings, or determinations of the health director or his designated representative under this air pollution control code.

(c) To hear appeals arising from the failure of the health director or his designated representative to act within a reasonable period on complaints under this air pollution control code.

(5) Any person taking exception to and who is uniquely affected by any decision, ruling, requirement, rule, regulation, or order of the health director or by his failure to act within a reasonable amount of time may take an appeal to

the board as established by this section. Such appeals shall be made within fifteen (15) days after receiving notice of such decision, ruling, requirement, rule, regulation, or order or failure to act by filing a written notice of appeal directly to the board specifying the ground thereof and the relief requested. Such an appeal shall act as a stay of the decision, ruling, requirement, rule, regulation or order in question until the board has taken final action on the appeal, except when the health director has acted under § 20-107, "Emergency order" or except when an appeal has been filed pursuant to section 20-1(109), Reference 1200-3-9-.05(8). The board, not more than thirty (30) days after the date of filing an appeal, shall set a date for the hearing not more than sixty (60) days after the date of filing of the appeal and shall give notice thereof by mail to the interested parties.

(6) Hearings before the board shall be conducted in the following manner:

(a) Notice of any and all hearings shall be given at least fifteen (15) days prior to the scheduled date of the hearing by public advertisement in a newspaper of general circulation in Shelby County, Tennessee giving the date, time, place and purpose of the hearing; and

(b) The chairman of the board shall act as the hearing examiner to conduct such hearing; and

(c) Any person seeking a variance or any party who has filed a written notice of appeal pursuant to § 20-108 or section 20-1(109) [Reference 1200-3-9-.05], may appear in person or by agent or attorney and present evidence, both written or oral, relevant to the questions and issues involved and may examine and cross examine witnesses.

(d) All testimony shall be under oath and recorded. The board is authorized to have all testimony transcribed and a transcript of such testimony, if transcribed, shall be made available to the respondent or any party to the hearing upon payment of the normal fee, which shall not exceed the cost of transcribing such testimony.

(e) After due consideration of the written and oral statements, the testimony and arguments submitted at the hearing upon such complaint, or, upon default in appearance of the respondent on the return date specified in the formal notice of complaint, the board shall issue and enter such final order or make such final determination as it shall deem appropriate not later than sixty (60) days after the hearing date, and shall immediately notify the respondent thereof, in writing, by certified mail. Such order or determination shall be approved by at least a majority of members to which the board is entitled.

(f) Upon failure of the board to enter a final order or determination within sixty (60) days after the final argument of such hearing, the respondent shall be entitled to treat for all purposes such failure to act as a finding favorable to the respondent.

(g) The burden of proof shall be on the health director or his duly authorized representative where appeal has been sought pursuant to § 20-108 or section 20-1(109). The burden of proof is on the applicant where a variance has been sought pursuant to § 20-106, in accordance with Tennessee Code Annotated, § 68-201-118(k).

(h) Any person aggrieved by any final order or determination of the board hereunder shall have judicial review thereof by writ of certiorari pursuant to Tennessee Code Annotated, § 27-9-101 *et seq.* No judicial review shall be available until and after all the administrative remedies have been exhausted. (as added by Ord. #03-39, June 2003)

20-109. Nuisance abatement. (1) When dust, fumes, gases, mist, vapors, or any combination thereof escape from a building or equipment in such a manner and amount as to cause a nuisance or to violate any regulation, the health officer may order that the building or equipment in which processing, handling and storage are done be tightly closed and ventilated in such a way that all air and gases and air or as-borne material leaving the building or equipment are treated by removal or destruction of air contaminants before discharge to the open air.

(2) No person shall cause, suffer, allow, or permit any air contaminant source to source to be operated without employing suitable measures for the control of the emission of objectionable odors. Suitable measures shall include permit limitations, wet scrubbers, incinerators, or such other devices as may be approved by the health officer. (as added by Ord. #03-39, June 2003)

20-110. Fugitive dust. No person shall cause, suffer, allow, or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions shall include, but not be limited to, the following:

(1) Use where possible, water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;

(2) Application of asphalt, oil, water, or suitable chemicals on material stockpiles, and other surfaces which can create airborne dusts;

(3) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during sandblasting or other similar operations.

(4) Covering, at all times when in motion, open bodies trucks transporting materials likely to become airborne;

(5) Conduct of agricultural practices such as tilling of land, application of fertilizers, etc. in such manner as to not create a nuisance to others residing in the area.

(6) The paving of roadways and their maintenance in a clean condition.

(7) The prompt removal of earth or other material from paved street which earth or other material has been transported thereto by trucking or earth moving equipment or erosion by water. (as added by Ord. #03-39, June 2003)

20-111. Permits and fees – applicability and enforcement authority. (1) The provisions of this section on permit fees shall apply to any person required to make application on or after July 1, 1992, to the Memphis-Shelby County Health Department for issuance, re-issuance or modification of a permit in accordance with this chapter and air pollution control code, and shall be subject to the fee schedule set out in § 20-112. The provisions of this chapter on emissions fees shall apply to any person holding or obtaining a valid air pollution permit from the Memphis and Shelby County Health Department on or after July 1, 1992, and shall be subject to the fees set out in § 20-120.

(2) The Memphis-Shelby County Health Department (hereinafter referred to as the department) is designated to carry out and enforce the provisions of this air pollution control code and to promulgate any regulations consistent with it as may be required for proper administration of the fee system created herein. (as added by Ord. #03-39, June 2003)

20-112. Permits and fees – permit fee schedule. Fees for permits are hereinafter set out as follows, and shall apply to any "person" as defined in this chapter:

(1) Construction permits. (a) Any person making application to the Memphis-Shelby County Health Department for a construction permit shall pay an initial filing fee of two hundred dollars (\$200.00) per permit unit. This filing fee shall not be refundable if the permit is denied or if the application is withdrawn, nor shall it be applied to any subsequent application.

(b) In addition to the fees in (1)(a) above, the largest of the following fees, if applicable, shall be paid:

(i) Prevention of significant deterioration (PSD) review...\$3,000

(ii) Major source or major modification review, except PSD sources review, requiring modeling...\$2,000

(iii) Minor source or minor modification review, requiring modeling...\$500

(iv) New source performance standard (NSPS) source review, per permit unit...\$500

National emission standard for hazardous air pollutant (NESHAP) source review, per permit unit...\$500

(2) Inspection/operating permit. (a) Any person making application to the Memphis-Shelby County Health Department for an inspection/operating permit shall pay the larger of the applicable fees in accordance with the following schedule:

(i) Asbestos demolition/renovation, removal, per notice...\$100

(ii) Air curtain destructor, per permit unit...\$100

(iii) NSPS source, per permit unit...\$100

(iv) NESHAP source, per permit unit...\$100

(v) Any permit unit with actual emissions of 100 tons or more a year of any single pollutant...\$150

(vi) Any permit unit with actual emissions of 50 tons or more a year, but less than 100 tons per year of any single pollutant...\$100

(vii) Any permit unit with actual emissions of 25 tons or more per year, but less than 50 tons per year of a single pollutant...\$75

(viii) Any permit unit with actual emissions of less than 25 tons per year of a single pollutant...\$50

(ix) Any permit issued as the result of a permit by rule or annual notification and general standards application to a particular business or business group...\$100

(x) Any source issued a permit pursuant to local rules implementing title 40, Code of Federal Regulations, section 70 (Major source permits)...\$150.00

(b) No portion of the inspection/operating fee shall be refundable in the event the source discontinues operation or service during the permitted period.

(3) Modification of a permit. (a) Any person making application to the Memphis-Shelby County Health Department for the modification of a permit shall pay a fee for each permit unit being modified, except that no fee is required for modification of a permit to correct clerical, typographical, or calculations errors. This fee shall be set as follows:

(i) If the modification is anticipated to result in an increase in all pollutants less than 10 tons per year...\$100

(ii) If the modification is anticipated to result in an increase in all pollutants more than 10 tons per year, but less than 50 tons per year...\$250

(iii) If the modification is anticipated to result in an increase in all pollutants more than 50 tons per year...\$500

(4) Stack sampling. (a) If a source is required to demonstrate compliance by stack sampling its emissions, it shall pay the following additional fees:

(i) Any testing US/EPA methods 1 through 4 only, per permit unit...\$100

(ii) Particulate emissions testing requiring US/EPA method 5, per permit unit...\$300

(iii) Any other pollution testing by methods other than US/EPA method 5, (excepting those subject to subparagraph (i) immediately above), per permit unit...\$500

(b) Any retest required to demonstrate compliance shall be subject to the fee schedule as stated in the subparts (a)(i) through (a)(iii), immediately above. (as added by Ord. #03-39, June 2003)

20-113. Permits and fees – emissions fee for stationary sources.

(1) Emissions fee. A fee shall be collected annually from each stationary air pollution source which has more than one ton of actual emissions annually of a regulated pollutant as defined herein, called the "emissions fee", which shall equal the amount determined by the requirements set forth as follows:

(a) Twenty-nine dollars and sixty-five cents (\$29.65¹) per ton of emissions emitted from the source beginning with calendar year 1995, not including fugitive emissions and actual excess emissions that are the result of process malfunctions and facility start-up and shutdown determined by the health department to be in compliance with the air pollution code sections that excuse these emissions from enforcement of each regulated pollutant as defined in section 502(b)(3)(B)(ii) of the Federal Clean Air Amendments of 1990.

(b) If no adjustment in the emissions fee rate established for any calendar year after 1992 is made by the county commission and the

¹This is the effective emissions fee rate (after adjustment for carryover overage) approved by the City of Lakeland.

APPROVED RATE	ADOPTED IN	EFFECTIVE RATE	APPLICABLE TO
\$ 9.00	1992	\$ 9.00	1991 EMISSIONS
\$18.00	1993	\$18.00	1992 EMISSIONS
\$19.00	1994	\$17.10	1993 EMISSIONS
\$29.65	1995	\$29.65	1994 EMISSIONS
–	–	\$29.65	1995 EMISSIONS
–	–	\$29.65	1996 EMISSIONS
\$29.65	1998	\$29.65	1997 EMISSIONS
\$29.65	1999	\$29.65	1998 EMISSIONS
\$29.65	2001	\$29.65	1999 EMISSIONS
\$29.65	2001	\$29.65	2000 EMISSIONS

Lakeland Board of Mayor and Aldermen, the fee shall be increased by the percentage, if any, by which the Consumer Price Index for the most recent calendar year preceding the unadjusted year exceeds the Consumer Price Index for the calendar year two years prior to the unadjusted year, unless the Shelby County Commission adopts an emissions fee rate that excludes a Consumer Price Index adjustment. This rate amount shall then reflect a one-year Consumer Price Index adjustment. For purposes of this chapter and air pollution control code, the Consumer Price Index is the average of the Consumer Price Index for all urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year, and the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for 1989 shall be used.

(c) The fee collected shall be adjusted by resolution of the Board of Shelby County Commissioners and the Lakeland Board of Mayor and Aldermen from time to time consistent with the need to cover the costs authorized by the air pollution control code and in accordance with the procedures in Section 20-1(20). For purposes of this air pollution control code a "stationary air pollution source" shall be that group of air pollution sources located within a contiguous area and under common control.

(2) Maximum amount subject to emissions fee. Each stationary air pollution source shall be assessed the emissions fee on no more than four thousand (4,000) tons per year of each regulated pollutant it emits.

(3) Exemption for units subject to section 404 provisions of the clean air amendments of 1990. No fee will be charged until the year 2000 with respect to emissions from any unit which is classified as "an affected unit" under section 404 of the Clean Air Act Amendments of 1990, entitled "Phase 1 Sulfur Dioxide Requirements". (as added by Ord. #03-39, June 2003)

20-114. Permits and fees – payment of fees. (1) Any person acquiring a permit shall be subject to the following payment of permit fees and the following procedure shall be used in payment thereof.

(a) Initial filing fees for construction permits must be submitted with the initial permit applications.

(b) Additional fees related to construction permits including those related to public notice are due within thirty (30) days of receipt of billing by the department.

(c) Fees related to stack testing are due within thirty (30) days of receipt of billing by the department.

(d) Inspection/operating fees are assessed annually on the anniversary date of the issuance of the permit where applicable.

(i) Fees for asbestos removal must be submitted with the written notice of intent to remove.

(ii) Fees for air curtain destructors must be submitted within ten (10) days of receipt of permit.

(e) Fees related to modification of a permit shall be submitted with the permit application.

(f) Fees related to public notice necessary for the regulation of a source shall be due within thirty (30) days of receipt of billing by the department.

(2) If the emissions fees assessed to a stationary air pollution source are less than five thousand (\$5,000) dollars, the fees owed shall be submitted by September 30 of the year following the year the emissions occurred. If more than five thousand (\$5,000) dollars is owed, then the amount due shall be submitted by January 31 of the year two years after the emissions occurred. (as added by Ord. #03-39, June 2003)

20-115. Permits and fees – allowable uses for emissions fee. The department shall collect an annual emissions fee from those entities within the City of Lakeland which operate stationary air pollutant sources required to make application on or after July 1, 1992, to the Memphis-Shelby County Health Department for issuance, re-issuance or modification of a permit in accordance with the City of Lakeland, Tennessee--Air Pollution Control Code, and shall be subject to the fee schedule set out in § 20-112. This fee shall be used for:

(1) Reviewing and acting upon any application for a permit or permit modification under the City of Lakeland, Tennessee--Air Pollution Control Code as amended;

(2) Implementing and enforcing the terms and conditions of any permit issued under the City of Lakeland, Tennessee--Air Pollution Control Code, provided, however, such cost shall not include any court cost or other costs associated with any judicial enforcement action;

(3) Emissions and ambient monitoring and inspection of source operated monitoring programs;

(4) Preparing generally applicable regulations or guidance;

(5) Modeling, analyses and demonstrations;

(6) Preparing inventories and tracking emissions.

(7) Development of and support for the small business stationary source technical and environmental compliance assistance program as it applies to part 70 sources.

(8) Information management activities to support and track permit applications, compliance certifications and related data entry.

The emission and annual operating/inspection fees collected from major stationary air pollution sources as defined herein, shall be used exclusively for and be sufficient to pay, the direct and indirect costs of the major stationary source operating permit program allowable under the Federal Clean Air Act and under regulations in support of those federal provisions as adopted locally in the

City of Lakeland, Tennessee--Air Pollution Control Code. The owner or operator of any stationary source shall also pay any cost of expense associated with public notices or notifications required pursuant to the City of Lakeland, Tennessee--Air Pollution Control Code or the Federal Clean Air Act. (as added by Ord. #03-39, June 2003)

20-116. Permits and fees -- reporting requirements. (1) Except as provided below, each permitted stationary air pollution source must submit to the department an annual report that establishes the amount of actual emissions of each regulated pollutant, including carbon monoxide, for that source. This report will be for the emissions of that source that occurred during the calendar year starting in 1991 and continuing for succeeding years thereafter. The department may request, and the air pollution source shall provide, additional information on the emissions data submitted when the department determines, the data previously provided is inadequate to establish the actual type or amount of emissions from the source subject to fees.

(2) Not including air toxics as they are defined in the Clean Air Act Amendments of 1990 and the amendments thereto, if the source emits fewer than twenty five (25) tons of actual emissions of pollutant during a year, it may at its option, use as the actual emissions figure, its permitted pollutant levels where available and known. If the source is a "major source" under the air toxics provisions of the Clean Air Act Amendments of 1990 it too must calculate its actual emission of regulated pollutants. Failure to provide, on a timely basis, any additional information requested shall be considered failure to pay the fees. (as added by Ord. #03-39, June 2003)

20-117. Permits and fees – small business waiver. The director of the department, in his discretion but consistent with section 507(f) of the Clean Air Acts Amendments of 1990, may, upon written petition setting forth in detail the justification therefore, reduce or waive for up to three (3) years, any emissions fee required under this chapter to take into account the financial resources of small business stationary air pollution sources as defined under the federal act or regulations promulgated pursuant thereto. A decision to deny the waiver may be appealed to the local air pollution control board by the party requesting the waiver and will be heard under the same procedures as any other decision that is appealed to this board. If a waiver is granted, it will be reviewed by the board in its annual review process and is then subject to revocation or modification by the board if found to be unwarranted or granted in an arbitrary fashion. Such action will have no effect on prior years emissions fees and will only apply to the collection of future emissions fees. (as added by Ord. #03-39, June 2003)

20-118. Permits and fees – surplus funds carry forward. Any surplus in emissions fee funds shall be carried forward from year to year for

these stated purposes only. If, however, in any year after 1993, this carry forward surplus exceeds on February 15th thirty five percent (35%) of the previous twelve (12) months fee, a ten percent (10%) per ton credit on the established emissions fee amount shall be given to all stationary sources in the next emissions fee payment. (as added by Ord. #03-39, June 2003)

20-119. Permits and fees – penalty provisions. Failure to pay the fees set forth in this air pollution control code shall be a violation of the City of Lakeland, Tennessee--Air Pollution Control Code and can result in the assessment of penalties and injunction against the stationary air pollution source. In addition to any fees owed, a maximum penalty equal to fifty percent (50%) of the fees owed may be assessed for late payment. Interest in the amount equal to the maximum allowed under state law shall also be charged for all fees paid more than thirty (30) days late. When an emissions fee amount is contested, only the contested portion can be withheld. Any uncontested fee amount must be paid by the due date for payment. Due process for contested amounts is provided by appeal under the administrative and judicial review provisions of the City of Lakeland, Tennessee--Air Pollution Control Code for appeal of decisions of the health officer. (as added by Ord. #03-39, June 2003)

20-120. Permits and fees – annual review of fee structure and financial need. The Memphis-Shelby County Air Pollution Control Board shall annually review the fee structure established for the local air pollution control program and recommend to the Shelby County Commission any change in rate or make-up of the fee it determines, after public hearing, is necessary to meet the financial requirements of the Memphis-Shelby County Health Department Air Pollution Control Program to fulfill the activities allowed to be funded by these fees. Such review shall include an estimate of other funds available to the program including surplus or carry forward funds as well as changes in state or federal laws that could effect the program. The recommendation shall be provided to the commission no later than April 1 of each year. The county commission shall not, however, be required to adopt this recommendation, nor to change fees on any predetermined schedule. If the Shelby County Commission adopts a change in the rate or makeup of the fee, that adoption shall be provided to the Lakeland Board of Mayor and Aldermen for adoption prior to collection of changed emission fees by the Memphis-Shelby County Health Department. (as added by Ord. #03-39, June 2003)

20-121. Severance. The provisions of this chapter are hereby declared to be severable. Should any of these sections, provisions, sentences, clauses, phrases, or parts be held unconstitutional or void, the remaining portions shall continue in full force and effect. (as added by Ord. #03-39, June 2003)

20-122. Regulation of particulate matter from incinerators.

(1) No person shall cause, suffer, allow or permit the emissions from any incinerator having a charging rate of 2,000 pounds per hour or less, fly ash or other particulate matter in quantities exceeding 0.2 grains per cubic foot of flue gas at standard conditions corrected to 12 per cent carbon dioxide by volume excluding the contribution of auxiliary fuel.

(2) No person shall cause, suffer, allow or permit the emissions from any incinerator having a charging rate greater than 2,000 pounds per hour, fly ash or other particulate matter in quantities exceeding 0.1 grains per standard cubic foot of flue gas at standard conditions corrected to 12 per cent carbon dioxide by volume excluding the contribution of auxiliary fuel.

(3) No person shall cause, suffer, allow or permit the emissions of particles of unburned waste or ash from any incinerator which are individually large enough to be visible while suspended to the atmosphere.

(4) No person shall construct, install, use or cause to be used any incinerator which will result in odors being detectable by sense of smell in any area of human use or occupancy.

(5) No person shall install or construct an incinerator to be used for disposal of combustible waste from dwelling units if such incinerator is to be used to burn such wastes produced by fewer than twenty-five (25) dwelling units.

(6) No person shall use or cause to be used any incinerator unless all components connected to or attached to, or serving the incinerator, including control apparatus, are functioning properly and are in use. Incinerators shall be operated so as to comply with recognized good practices.

(7) Incinerators having 2.5 cubic feet furnace volume or less used solely for the disposal of infective dressings and other similar material shall not be required to meet these emission standards.

(8) No person shall cause, suffer, allow, or permit to be discharged into the atmosphere from any incinerator, visible emissions with an opacity in excess of twenty percent (20%). (as added by Ord. #03-39, June 2003)

20-123. Right of entry. For the purpose of carrying out the requirements of the City of Lakeland, Tennessee--Air Pollution Control Code, the health officer and his authorized representatives, including engineers, assistants, environmentalists and other employees, shall be permitted at all reasonable times to enter into any manufacturing plants, business buildings or other buildings, and all lots, grounds and premises, in order to thoroughly examine any items in relation to public health and air pollution thereon and therein. (as added by Ord. #03-39, June 2003)

20-124. Adoption of rules and regulations by reference; section nomenclature. Rules and Regulations of Tennessee Chapters 1200-3-2, titled Definitions; 1200-3-3, titled Ambient Air Quality Regulations; 1200-3-5, title

Visible Emissions; 1200-3-6, titled Nonprocess Emission Standards; 1200-3-7, titled Process Emissions Standards; 1200-3-9, titled Construction and Operating Permits; Chapter 1200-3-10, titled Required Sampling, Recording and Reporting; 1200-3-11, titled Hazardous Air Contaminants; 1200-3-12, titled Methods of Sampling and Analysis; 1200-3-14, titled Control of Sulphur Dioxide Emissions; Chapter 1200-3-15, titled Emergency Episode Plan; Chapter 1200-3-16, titled New Source Performance Standards; 1200-3-18, titled Volatile Organic Compounds; 1200-3-20, titled Limits on Emissions due to Malfunctions, Startups and Shutdowns; 1200-3-21, titled General Alternate Emission Standards; 1200-3-22, titled Lead Emission Standards; 1200-3-24, titled Good Engineering Practices Stack Height Regulations; 1200-3-25, titled Standards for Infectious Waste Incinerators; 1200-3-30, titled Acid Precipitation Standard; 1200-3-31, titled National Emission Standards for Hazardous Air Pollutants for Source Categories; and, 1200-3-32, titled Prevention of Accidental Releases; Tennessee Code Annotated, § 68-201-101 through § 68-201-118, as effective on December 31, 2000; Chapter 1200-3-34, titled Conformity, as effective on November 14, 2001; and, the New Source Performance Standards (with the exception of Subparts B, C, Cb, Cc, Cd, Ce, AAA) of the Code of Federal Regulations, Title 40, Part 60 (40 CFR 60) (Revised as of July 1, 2002), and Appendices A, B and F of 40 CFR 60 (Revised as of July 1, 2001), are incorporated herein by reference as if set out in their entirety and shall be adopted and approved as part of the City of Lakeland, Tennessee--Air Pollution Control Code, thereby amending the City of Lakeland, Tennessee--Air Pollution Control Code. Section nomenclature is identified in accordance with the following table.

<u>Lakeland Code Nomenclature</u>	<u>State Regulations</u>	<u>Federal Regulations</u>	<u>Title</u>
20-1(102)	1200-3-2	-----	Definitions
20-1(103)	1200-3-3	-----	Ambient Air Quality Regulations
20-1(105)	1200-3-5	-----	Visible Emissions
20-1(106)	1200-3-6	-----	Nonprocess Emission Standards
20-1(107)	1200-3-7	-----	Process Emission Standards
20-1(109)	1200-3-9	-----	Construction and Operating Permits
20-1(110)	1200-3-10	-----	Required Sampling, Recording and Reporting
20-1(111)	1200-3-11	-----	Hazardous Air Contaminants

20-1(112)	1200-3-12	-----	Methods of Sampling and Analysis
20-1(114)	1200-3-14	-----	Control of Sulfur Dioxide Emissions
20-1(115)	1200-3-15	-----	Emergency Episode Plan
20-1(116)	1200-3-16	40 CFR 60 as defined above	New Source Performance Standards
20-1(118)	1200-3-18	-----	Volatile Organic Compounds
20-1(120)	1200-3-20	-----	Limits on Emissions due to Malfunctions, Startups and Shutdowns
20-1(121)	1200-3-21	-----	General Alternate Emission Standards
20-1(122)	1200-3-22	-----	Lead Emission Standards
20-1(124)	1200-3-24	-----	Good Engineering Practice Stack Height Regulations
20-1(125)	1200-3-25	-----	Standards for Infectious Waste Incinerators
20-1(130)	1200-3-30	-----	Acid Precipitation Standard
20-1(131)	1200-3-31	-----	National Emission Standards for Hazardous Air Pollutants for Source Categories
20-1(132)	1200-3-32	-----	Prevention of Accidental Releases
20-1(134)	1200-3-34	-----	Conformity

(as added by Ord. #03-39, June 2003)

20-125. Modifications. (1) The City of Lakeland, Tennessee--Air Pollution Control Code, Section 20-1(102), Definitions, be amended by adding at the end of the section the following definitions for "Health Officer" and "Odor" that read as follows:

"Health Officer" is the Health Officer for Memphis and Shelby County.

"Odor" is a sensation of smell perceived as a result of olfactory stimulation. An odor is deemed objectionable, and therefore a nuisance,

when one third (1/3) or more of a sample of persons exposed to it believe it to be objectionable in usual places of occupancy. The sample size is to be at least twenty-five (25) persons, or when fewer than twenty-five (25) are exposed, one half (½) must believe it to be objectionable.

(2) The City of Lakeland, Tennessee--Air Pollution Control Code, Section 20-1 (109), Reference 1200-3-9, Construction And Operating Permits, be amended by deleting in its entirety item 1200-3-9-.02(1 1)(b)14.(ii)(XXVII) and substituting in lieu thereof a new item 1200-3-9-.02(1 1)(b)14.(ii)(XXVII) so that it reads as follows:

(XXVII) Any other stationary source category, which as of August 7, 1980 is being regulated under section 111 or 112 of the Act;

(3) The City of Lakeland, Tennessee--Air Pollution Control Code, Section 20-1(109), Reference 1200-3-9, Construction And Operating Permits, be amended by replacing the phrase "T.C.A. Section 68-201-108" in the last sentence of paragraph 1200-3-9-.05(5) with the phrase "City of Lakeland, Tennessee--Air Pollution Control Code Section 20-1(8)" so that the paragraph reads as follows:

(4) In any case where a condition is placed on a permit, the imposition of that permit condition may be appealed by filing a petition for reconsideration of the permit condition. The petition for reconsideration of permit conditions shall specify which conditions and portions of conditions are objected to and specifying in detail the objections. The petition of appeal must be delivered to the Technical Secretary within thirty (30) days after the mailing date of the permit.

If the Technical Secretary is considering denying the petition he shall schedule a conference with the petitioner to discuss the matters under appeal within forty-five (45) days of his receipt of the petition. If the Technical Secretary's resultant decision on the matters under appeal aggrieves the petitioner, the petitioner may request a hearing pursuant to City of Lakeland, Tennessee--Air Pollution Control Code Section 20-1(8).

(5) The City of Lakeland, Tennessee--Air Pollution Control Code, Section 20-1(109), Reference 1200-3-9, Construction And Operating Permits, be amended by replacing the phrase "T.C.A. Section 4-5-301 et seq." in paragraph 1200-3-9-.05(6) with the phrase "City of Lakeland, Tennessee--Air Pollution Control Code Section 20-1(8)" so that the paragraph reads as follows:

(6) All applicable provisions of City of Lakeland, Tennessee--Air Pollution Control Code Section 20-1(8), on contested cases shall apply to the hearing before the Board on such appeals.

(7) The City of Lakeland, Tennessee--Air Pollution Control Code Section 20-1(118), Reference 1200-3-18-.79, Volatile Organic Compounds, be amended by adding language to part 1200-3-18.79(1)(e)2. so that it reads as follows:

2. Sources subject to source-specific standards approved in lieu of standards in Rules .11 through .77 of this chapter and sources subject to a National Emission Standard for Hazardous Air Pollutants (also called a MACT standard) that applies to all volatile organic compound emissions at the sources; and
(as added by Ord. #03-39, June 2003)

CHAPTER 2

DELETED¹

(This chapter was deleted by Ord. #03-31, April 2003)

¹Rules for the utilization of city parks, as provided by Ord. #208, Sept. 1997; was repealed by Ord. #03-31, April 2003.

CHAPTER 3

LOCAL EMERGENCY POWER ORDINANCE

SECTION

20-301. Local emergency power.

20-301. Local emergency power. (1) It is the intent of the Local Emergency Power Ordinance to designate Lakeland officials who can declare a local emergency in the event of a natural or man made emergency/disaster, or the imminent threat thereof, and to authorize certain actions relating thereto until a meeting of the board of commissioners can be held.

(2) Pursuant to the code of ordinances, the local emergency powers ordinance waives procedures all and formalities otherwise required for the declaration of an emergency/disaster by the city manager or designee. In the event that it is deemed necessary to declare the existence of an emergency/disaster without delay, the director of the Memphis/Shelby County EMA may, if the city manager or designee are not available, carry out said declaration. The director is empowered to declare a local emergency whenever he determines that a natural or manmade emergency/disaster has occurred or that the occurrence or threat of one is imminent and requires immediate expeditious action.

(3) "Emergency" will mean the occurrence, threat thereof, whether accidental, natural, or caused by man, in war or peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

(4) A local emergency/disaster will be declared by proclamation of the city manager of Lakeland or designee. The declaration of the local emergency shall continue until the city manager of Lakeland or designee, or the director of the Memphis/Shelby County EMA designee in his absence finds that the threat or danger no longer exists or until an emergency meeting of the Lakeland Board of Commissioners take place and terminates or amends the declaration of the local emergency/disaster by resolution or other action.

(5) A proclamation declaring a local emergency/disaster will activate the emergency/disaster plans applicable to the specific incident and will be the authority for use concerning distribution of any supplies, equipment, materials, or facilities assembled or arranged to be made available pursuant to such plans.

(6) Upon the declaration of a local emergency/disaster, pursuant to this ordinance, emergency ordinances issued by the officials of this jurisdiction will be in effect during the period of such emergencies/disasters to protect the health, safety, and welfare of the community or until terminated or amended by the board of commissioners.

(a) The purpose of this ordinance is to provide authority and enforcement power for whatever action is necessary, including the following:

(i) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives and combustibles.

(ii) Establish curfews, including, but not limited to, the prohibition of or restriction of pedestrian and vehicle movement, standing and parking, except for the provision of designated essential services, such as fire, police, emergency medical services and hospital services, including the transportation of patients, emergency utility repairs and emergency calls by physicians.

(iii) Utilize all available resources of the City of Lakeland government as it is reasonably necessary to cope with the emergency/disaster including emergency expenditures not to exceed ten thousand dollars (\$10,000.00).

(iv) Declare certain areas off limits.

(v) Make provisions for the availability and use of temporary emergency housing and the emergency warehousing of materials.

(vi) Establish emergency operating centers and shelter in addition to or in place of those provided for the emergency operation plan.

(vii) Declare that during an emergency/disaster it will be unlawful and an offense against the City of Lakeland for any person, firm, or corporation to use the fresh water supplied by the City of Lakeland, Memphis Light Gas and Water, emergency workers, or any city for any purpose other than cooking, drinking, or bathing.

(viii) Declare that during an emergency/disaster it shall be unlawful and an offense against the City of Lakeland, for any person, firm or corporation operating within the City of Lakeland to charge more than the average retail price for any merchandise, goods, or services sold during the emergency/disaster. The average retail price as used herein is defined to be that price at which similar merchandise, goods or services were being sold during the ninety (90) days immediately preceding the emergency/disaster or a mark-up which is not a larger percentage over wholesale cost that was being added to wholesale cost before the emergency/disaster.

(ix) Confiscate merchandise, equipment, vehicles or property needed to alleviate the emergency/disaster. Reimbursement shall be within sixty (60) days and customary value charged for the item during ninety (90) days prior to the emergency/disaster.

(x) Allow the city manager of Lakeland or designee in the city manager's absence, the director of the Memphis/Shelby County EMA, or designee on behalf of the City of Lakeland to request the

National Guard of the Army, Coast Guard or other law enforcement divisions as necessary to assist in the mitigation of the emergency/disaster or to help maintain law and order, rescue, and traffic control.

(7) Nothing in this ordinance shall be construed to limit the authority of the Lakeland Board of Commissioners to declare or terminate a local emergency/disaster and take any action authorized by law when in regular or special session.

(8) Any person, firm or corporation who refuses to comply with or violates any section of this ordinance, or the emergency measures which may be made effective pursuant to this ordinance, shall be punished by a fine and/or imprisonment as provided by law.

Nothing herein contained shall prevent the City of Lakeland from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with or violation of this ordinance or the emergency/disaster measures which may be effective pursuant to this ordinance. Such other lawful action shall include, but shall not be limited to, an equitable action for injunctive relief or any action of law for damages. (as added by Ord. #11-162, Sept. 2011)

CHAPTER 4

MISCELLANEOUS

SECTION

20-401. Public records.

20-401. Public records. Procedures regarding access to an inspection of public records:

(1) Consistent with the Public Records Act of the State of Tennessee, personnel of the City of Lakeland shall provide full access and assistance in a timely and efficient manner to Tennessee residents who request access to public documents.

(2) Employees of the City of Lakeland shall protect the integrity and organization of public records with respect to the manner in which the records are inspected and copied. All inspections of records must be performed under the supervision of the records custodian or designee. All copying of public records must be performed by employees of the city, or, in the event that city personnel are unable to copy the records, by an entity or person designated by the records custodian.

(3) To prevent excessive disruptions of the work, essential functions, and duties of employees of the City of Lakeland, persons requesting inspection and/or copying of public records shall complete a records request form to be furnished by the city. If the requesting party refuses to complete a request form, a city employee shall complete the form with the information provided by the requesting party. Persons requesting access to open public records shall describe the records with specificity so that the records may be located and made available for public inspection or duplication, as provided in (2) above. All requests for public records shall be directed to the records custodian.

(4) When records are requested for inspection or copying, the records custodian has seven (7) days to determine whether the city can retrieve the records requested and whether the requested records contain any confidential information, and the estimated charge for copying based upon the number of copies and amount of time required.

Within seven (7) days of a request for records the records custodian shall:

- (a) Produce the records requested;
- (b) Deny the records in writing, giving explanation for denial;

or,

(c) In the case of voluminous requests, provide the requestor, in writing, with an estimated time frame for production and an estimation of duplication costs.

(5) There is no charge assessed to a requester for inspecting a public record. Charges for physical copies of records, in accordance with the Office of Open Records Counsel (OORC) schedule of reasonable charges, are as follows:

- (a) \$0.15 per copy for black and white copies.

(b) \$0.50 per copy for colored copies.

(c) \$0.15 per copy for accident reports.

(d) Maps, plats, electronic data, audio discs, video discs, and all other materials shall be duplicated at actual costs to the city.

(6) Requests requiring less than one (1) hour of municipal employee labor for research, retrieval and duplication are free to the requester. Labor in excess of one (1) hour may be charged by the city, in addition to the cost per copy, as provided in (5). The city may require payment in advance of producing voluminous records. Requests for copies of records may not be broken down to multiple requests for the same information in order to qualify for the first free hour. For a request requiring more than one (1) employee to complete, labor charges will be assessed based on the following formula:

In calculating the charge for labor, a department head shall determine the number of hours each employee spent producing a request. The department head shall then subtract the one (1) hour threshold from the number of hours the highest paid employee(s) spent producing the request. The department head will then multiply the total number of hours to be charged for the labor of each employee by that employee's hourly wage. Finally, the department head will add together the totals for all the employees involved in the request and that will be the total amount of labor that can be charged.

(7) The police chief shall maintain in his or her office records of undercover investigators containing personally identifying information. All other personnel records of the police department shall be maintained in the office of the records custodian. Requests for personnel records, other than for undercover investigators, shall be made to the records custodian, who shall promptly notify the police chief of such request. The police chief shall make the final determination as to the release of the information requested. In the event that the police chief refuses to release the information, he shall provide a written explanation of the reasons for not releasing the information.

(8) If the public records requested are frail due to age or other conditions and copying of the records will cause damage to the original records, the requesting party may be required to make an appointment for inspection. (as added by Ord. #14-207, April 2014)

CHAPTER 5

RULES FOR UTILIZATION OF CITY PARKS

SECTION

20-501. Rules for utilization of city parks.

20-501. Rules for utilization of city parks. The park rules set forth in Exhibit A¹ shall be posted in each and every public park of Lakeland, Tennessee. Posted rules may be in condensed form. (as added by Ord. #18-212, March 2018 *Ch8_12-06-18*)

¹Exhibit A to Ord. #18-262 (Rules for Utilization of City Parks), and any amendments thereto, may be found in the recorder's office.

APPENDIX A

CITY OF LAKE LAND FEE SCHEDULE

(Ord. #04-65, as replaced by Ord. #10-150)



CITY OF LAKE LAND
FEE SCHEDULE

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CITY OF LAKELAND USER FEES

Parks and Recreation Fees:

Team Fees:	Soccer-----\$90.00 (Ord.10-150)
	Basketball-----\$90.00 (Ord. 10-150)
	Cheerleading (uniform not included)-----\$85.00 (Ord. 10-150)
	T-Ball-----\$90.00 (Ord. 10-150)
	Tennis Lessons-----\$25 (per session)
	Tennis League Play -----\$25
Camp Fee:	Day Camp Fee (per week)-----\$75 (1st child) \$50 (per week) for each additional child (same family) (Full Enrollment – Monday through Friday, 8:30 am – 3:30 pm)
	Day Camp Fee (week to week)-----\$100 (per child)
Pavilion:	Rental-----\$100.00 (Ord. 10-150)
	Clean-up deposit (refundable)----\$50.00 (Ord. 10-150)

IH Clubhouse:

	Private Event**		Non-Profit Event^^	
	Lakeland Residents/ Employees*	Non-Residents	Non-Profit Organization (Entry fee)	Non-Profit Organization (No entry fee)
Sunday-Thursday				
Up to 8 hours***	\$400	\$500	\$100	\$50
Up to 2 hours	\$100	\$150	\$50	\$25
Friday-Saturday				
Up to 12 hours***	\$500	\$700	\$150	\$50
Up to 2 hours	\$150	\$200	\$50	\$25

- * Employees of the City of Lakeland and Lakeland School System
- ** A \$300 refundable deposit is required to all rental fees for private events.
- *** \$50 for each additional Sunday-Thursday, \$75 for each additional hour Friday-Saturday.
- ^^ Non-profit groups may reserve IH Clubhouse 90 days in advance of the event. (Ord. 14-215)

Rental fees may be waived by the city manager or board of commissioners for 501(c)3 non-profit organizations, including official Lakeland home-owner associations.

Cancellation Fee:

\$50 if canceled at least 3 weeks prior to the event.

\$200 if canceled less than three weeks prior to the event.

The event is considered canceled upon notification to the City.

Monthly Storage Fee (for users only) \$.80 (per sq. foot)(Ord. 12-178)

Training/Instructional/Educational Classes:

Rental (1 daytime hour (7 a.m. to 6 p.m.))----\$12.50 or 25% of class fee (roster must be submitted for each session)

Note: A minimum number of rental periods (i.e. once per week for eight weeks) may be required for this rate. (Ord. 11-158)

Rental (first three daytime hours (7 a.m. to 6 p.m.))
----- \$25 or 25% of class fee
(roster must be submitted for each session)

Note: Night classes are available Monday through Thursday with approval of City Manager or Designee. (Ord. 11-158)

CITY OF LAKELAND MISCELLANEOUS FEES

Other Fees: (City of Lakeland residents pay, but are not collected by the City)

Establishment of new monthly Sanitation Rate as follows:

Solid Waste Residential Fee: \$24.70/customer/month

Yard Waste Collection collected outside of the Yard Waste Cart shall be charged by the City's Refuse Collection and Disposal Contractor at the rate of \$25.00 for the first thirty minutes and \$10 per five minutes thereafter.

In the event of major adverse weather events that produce an abundant amount of yard waste debris in the community, the Board of Commissioners grants the City Manager authority to waive yard waste collection fees for a period not to exceed three weeks for each event.

The cost for an additional yard waste cart is \$3.30 per customer per month. (Ord. 13-186)

Ambulance Fee: Per Resident-----\$3.20 (per month)
(Paid through Utility Bill)

Sewer Fees:

Residential:

Fiscal year 2017, the residential rate shall be \$31.50 for the first 5.00 ccf. Hereafter the rate shall be \$2.50 per hundred cubic feet. (Ord. 16-243, 17-247)

The City of Lakeland shall impose sanitary sewer user rates, in the amount of \$17.25 per user per month beginning fiscal year 2017 increasing to \$23.00 per user per month beginning fiscal year 2018 to those addresses

on certain lots more specifically described in Exhibit A.¹ (Ord. 16-243)

Commercial:

For calendar year 2013, the commercial rate shall be \$58.35 for the first 40.91 ccf (30,600 gallons). Thereafter the rate shall be \$1.30 per hundred cubic feet (ccf). (Ord. 13-188)

For calendar year 2014, the commercial rate shall be \$60.35 for the first 40.91 ccf (30,600 gallons). Thereafter the rate shall be \$1.39 per hundred cubic feet (ccf). (Ord. 13-188)

Sewer Charge Adjustments

The City of Lakeland will make adjustments to customer sewer bills where said adjustment is necessary to correct billing errors, to correct errors due to equipment failure, or to fairly apply the rates and rules of the city. Where a customer experiences extraordinary water consumption during a billing period due to a break in customer owned plumbing, equipment malfunction, etc. and said water did not enter the sanitary sewer system, the city may adjust the sanitary sewer charge to an amount that is typical of customer's normal usage. A written request shall be submitted to the city within sixty (60) days of the incident. The request shall state the account number, name of the account holder, service address, contact information, and reason for the adjustment. Supporting documentation shall accompany the request documenting the repair (i.e. receipt) and utility bills covering the previous twelve (12) month period. The adjustment will cover no more than two (2) consecutive months. One (1) financial adjustment will be allowed every one (1) year. Adjustments will not be considered for normal outdoor water usage (i.e. irrigation, car washing, pressure washing, swimming pools, etc.). (Ord 16-243)

Stormwater User Fees -----\$3.20/ERU/month
(Ord. 08-128)

¹Exhibit A (Parcel IDs and addresses) is available in the office of the recorder.

Basketball Goal Storage & Removal Fee

Picking up basketball
goal-----\$75.00 (Ord. 10-150)
Storage Fee (for storing
basketball goal)-----\$50.00 (Ord.10-150)
Picking up (concreted in)
basketball goal-----\$100.00 (Ord.10-150)

CITY OF LAKELAND FEE SCHEDULE

Copies:

Per Page – Black & White-----	\$0.15 (Ord. 09-129; Res 2009/07-42)
Per Page – Colored-----	\$0.50 (Ord. 09-129; Res 2009/07-42)
Oversized copies per page-----	At Actual Cost to City (Ord. 09-129; Res 2009/07-42)

Research:

0-59 Minutes-----	No Charge (Ord. 09-129 & Res 2009/07-42)
60+ Minutes-----	Cost of Employee per Hour (Ord. 09-129 & Res 2009/07-42)

Manuals:

Charter-----	\$5.00
Municipal Code-----	\$75.00
Zoning Ordinance-----	\$50.00
Subdivision Regulations-----	\$50.00
Comprehensive Plan-----	\$50.00
Zoning Ordinance, Subdivision Regs & Comprehensive Plan (CD)-----	\$10.00
Erosion & Sediment Control Handbook-----	\$30.00
Design Review Commission Manual-----	\$30.00
S.O.B Ordinance-----	\$10.00
Tree Ordinance-----	\$10.00
Sign Ordinance-----	\$10.00
Fence Ordinance-----	\$10.00
Mobile Home Park Ordinance-----	\$10.00
Substandard Property Removal-----	\$3.00
Boards & Commissions By-laws-----	\$5.00

Maps

Standard maps (Zoning, Subdivisions, etc.)	11 x 17 - \$5.00 each
<u>Note:</u> All maps are not available in every size	20 x 24 - \$20.00 each 24 x 36 - \$30.00 each 36 x 46 - \$50.00 each
Annexation History (color, 15 pg.)	8.5 x 11 - \$25.00 each
Annexation History (B/W, 56 pg.)	8.5 x 11 - \$15.00 each
<u>Note:</u> All maps are not available in every size	
Custom Maps:	call for pricing (Ord. 12-168)

Digital Data	Standard data (Streets, Parcels, etc.)	\$15.00 each
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Contours (2 ft.)

\$20.00 per file
(Ord. 12-168)

Cell Tower Fee:

Connection Privilege-----\$2,000.00 per user

Aerial photography: Digital data
Maps

call for pricing
24 x 36 - \$40.00
36 x 46 - \$75.00
(Ord. 12-168)

CITY OF LAKELAND FEE SCHEDULE

PERMITS

- * Double Permit Fee for Construction Begun Prior to Permit Issued**
*** \$50 Re-inspection Fee for all Failed Inspections**

BUILDING PERMITS:**Residential:**

New homes and additions:

900,000 and over-----	\$1,250.00
800,000 to 899,999-----	\$1,150.00
700,000 to 799,999-----	\$1,050.00
600,000 to 699,999-----	\$950.00
500,000 to 599,999-----	\$850.00
400,000 to 499,999-----	\$750.00
350,000 to 399,999-----	\$700.00
300,000 to 349,999-----	\$650.00
250,000 to 299,999-----	\$600.00
200,000 to 249,999-----	\$550.00
150,000 to 199,999-----	\$500.00
100,000 to 149,999-----	\$450.00
80,000 to 99,999-----	\$300.00
60,000 to 79,999-----	\$250.00
40,000 to 59,999-----	\$200.00
20,000 to 39,999-----	\$150.00
5,000 to 19,999-----	\$100.00
4,999 or less-----	\$50.00

Sewer Connection Fee--(4" & smaller)-----	\$1,050.00 (Ord. 08-119)
-----(6" & smaller)-----	\$1,500.00 (Ord. 08-119)
-----(8" & smaller)-----	\$2,000.00 (Ord. 08-119)

Engineering Review (Grading and Drainage)	\$200.00 (Ord. 10-150)
Architectural Review (where applicable)-----	\$200.00 (Ord. 10-150)
Certificate of Occupancy-----	\$50.00
TN One Call (Lakeland Locate Fee)-----	\$50.00
Monetary Deposit (refundable)-----	\$750.00 (Ord. 10-150)
GIS Fee-----	\$100.00 (Ord. 12-186)

Commercial:

(New construction/exterior renovation)

\$500,000 and up-----	\$1,660.00 first \$500,000 plus \$2.00 each additional \$1,000 or fraction thereof
\$100,000 to \$500,000-----	\$460.00 first \$100,000 plus \$3.00 each additional \$1,000 or fraction thereof, to and including \$500,000
\$50,000 to \$100,000-----	\$260.00 first \$50,000 plus \$4.00 each additional \$1000 or fraction thereof, to and including \$100,000
Up to \$50,000-----	\$15.00 first \$1000 plus \$5.00 each additional \$1000 or fraction thereof, to and including \$50,000
Sewer Connection Fee-----	(4" & smaller)----\$1,050.00 (Ord. 08-119) (6" & smaller)----\$1,500.00 (Ord. 08-119) (8" & smaller)----\$2,000.00 (Ord. 08-119)
TN One Call (Lakeland Locate Fee)-----	\$50.00
Certificate of Occupancy-----	\$50.00
Monetary Deposit (refundable)-----	\$1,500.00
GIS Fee-----	\$250.00 (Ord. 12-168)

ACCESSORY PERMITS:

Accessory Uses (deck, gazebo, shed (up to 300 sq. ft.)-----	\$50.00
Detached Garage-----	\$150.00
Pool House-----	\$150.00
Fences/Walls-----	\$30.00

Other:

Curb cut/driveway access inspection-----	\$50.00
Inspection of existing driveway/curb-cut-----	\$50.00
Ponds/Lakes-----	\$50.00
Model Home-----	\$500.00 each unit
Model Home (6 month permit extension)-----	\$300.00 each unit
Moving (building or structure)-----	\$100.00
Demolition (building or structure)	
0 up to 10,000 cu. ft.-----	\$100.00
10,000 cu. ft. and over-----	\$100.00 plus

SIGN PERMITS:

Wall mounted-----	\$100.00
Ground mounted-----	\$150.00
Temporary Permits-----	\$30.00
	(Ord. 13-185)

LAND DISTURBANCE PERMITS:

Residential:

Less than one (1) acre-----	\$200.00 (Ord. 10-150)
One (1) to five (5) acres-----	\$200.00 plus (Ord. 10-150)
	\$100.00 per acre or fraction
Over five (5) acres-----	\$1,500.00 plus
	\$150.00 per acre or fraction

Non-Residential:

Five (5) acres or less-----	\$1,500.00
Over five (5) acres-----	\$1,500.00 plus
	\$150.00 per acre or fraction

ROAD CUT PERMITS:

Road Cut-----	\$35.00 per cut/300 feet (Ord. 09-131)
Road Bore-----	\$35.00 per cut/300 feet (Ord. 09-131)

PERSONS FAILING TO ACQUIRE A STREET CUT PERMIT IN ACCORDANCE WITH SECTION 16.202 OF THE LAKELAND MUNICIPAL CODE SHALL BE CHARGED AN ADDITIONAL \$50.00 PER PERMIT

TREE REMOVAL PERMIT:

Common Open Space:-----\$30.00 per acre or fraction
(after development, Homeowners Assoc)-----up to \$200.00 maximum

Builder/Owner/Occupied Residential Lots:-----<1 acre \$30.00 plus
\$10.00 per tree
-----≥ 1 acre \$30.00 per
acre or fraction plus
\$10.00 per tree up

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to \$100.00
maximum

TREE DISTURBANCE PERMIT:

Trenching, transplanting, etc.-----\$10.00 per tree

SUBMISSION FEES

Design Review Commission

Less than one (1) acre-----\$200.00
 One (1) – two (2) acres-----\$300.00
 More than 2 acres-----\$400.00 plus \$20.00 per acre
 Application and review for sign/fence-----\$100.00 per sign/fence
 Appeal to DRC-----\$200 (Ord. 09-138)

Zoning Map Amendment Application:-----\$500.00 plus \$100.00 per acre
or fraction up to \$5,000.00 maximum

Board of Zoning Appeals

Residential:

Variance-----\$200.00
 Special Use-----\$200.00
 Appeal-----\$200.00

Non-residential:

Variance-----\$300.00
 Special Use-----\$300.00
 Appeal-----\$200.00

Municipal Planning Commission

Non-residential:

Master or Preliminary Subdivision
 Plat-----\$500.00 plus \$10.00 per lot
 Construction Plans-----\$500.00 plus \$50.00 per lot
 Final Subdivision Plat-----\$500.00 plus \$10.00 per lot

Preliminary Site Plan

0 – five (5) acres-----\$500.00
 Six (6) – ten (10) acres-----\$750.00

Over ten (10) acres-----\$1,000.00
 Construction Plans-----\$500.00

Final Site Plan

0 – five (5) acres-----\$500.00
 Six (6) – ten (10) acres-----\$750.00
 Over ten (10) acres-----\$1,000.00

Residential:

Master or Preliminary Subdivision
 Plat-----\$500.00 plus \$10.00 per lot
 Construction Plans-----\$500.00 plus \$50.00 per lot
 Final Subdivision Plat-----\$500.00 plus \$10.00 per lot

Planned Developments:

Preliminary Detailed Development
 Plan-----\$1,000.00 plus \$10.00 per lot
 Secondary Detailed Development
 Plan-----\$500.00 plus \$10.00 per lot
 Construction Plans-----\$700.00 plus \$50.00 per lot
 Final Detailed Development
 Plan-----\$1,000.00 plus \$10.00 per lot
 Amendment to approved PD
 Master Plan/Outline Plan-----\$2,000.00
 Appeal from DRC action/decision-----\$200 (Ord. 09-138)

Advertising Fee-----at cost (Ord. 09-136)
 Re-notification-----\$50.00 plus cost
 Re-recording-----\$50.00 plus cost

DEVELOPMENT FEES

(As associated with the Development Contract)

Inspection Fee: (Construction of Subdivision,
 minor or major):

Residential - \$500.00 plus \$300.00 per lot or \$175.00 per unit
 Non-residential - \$1,000.00 plus \$300.00 per
 residential lot equiv. (Ord. #18-268, Dec. 2018 *Ch8_12-06-18*)

Administrative Review Fee: \$200.00 1st lot / \$100.00 (each additional lot)
 (Ord. 10-150)

Geographical Information System Fee:

-----\$200.00 1st lot / \$50.00 (each additional lot) (Ord. 10-150)
 Commercial GIS Fee-----\$1,000.00 (1st acre)/\$250.00 (each additional acre/portion) (Ord. 12-168)

Warning Siren Fee:-----\$ 50.00 per lot

Road Improvements:

Canada Road between U.S. Highway 64 and I-40-----\$46.50 per lineal foot

Engineering Review Fee:

Residential-----\$300.00 per lot/150.00 per unit
 Non-residential-----\$500.00 + \$200.00 per acre (Ord. #18-268, Dec. 2018 *Ch8_12-06-18*)

Natural Resources Inventory and Analysis Fee:

-----\$200.00 1st acre/ \$25.00 (each additional acre) (Ord. 10-150)

Tree Removal:-----\$100.00 per acre or fraction up to \$10,000.00 maximum

Drainage Control Fees:

Residential-----\$300.00 per lot/\$150.00 per unit
 Non-residential-----\$500.00 + \$250.00 per acre (Ord. #18-268, Dec. 2018 *Ch8_12-06-18*)

Parkland Review/Development Fees:

Review:

Less than one (1) acre-----\$200.00
 One (1) - two (2) acres-----\$300.00
 More than two (2) acres-----\$400.00 plus \$20.00 per acre

Residential Development Fee:

Parkland Dedication Formula: $D = L \times A \times P \times M$
 D = Required parkland dedication in acres*
 L = Number of lots/dwellings proposed
 A = Average family size for the City (2.94)
 P = Parkland ratio of .0100
 M = Density multiplier from Table 2 (S/Dreg)

** Must comply with the City of Lakeland Zoning Ordinance*

Parkland Improvement Fee-----\$100.00 per lot

Street Lights Fee:

Not Developer installed-----100% of cost

Sewer Development Fees:----- (Ord. 08-119)

WATER METER SIZE (INSIDE DIA)	DEVELOPMENT CHARGE
5/8 TO 3/4 INCH	\$3,100
1 INCH	\$5,177
1 1/2 INCH	\$13,653
2 INCH	\$16,523
3 INCH	\$47,847
4 INCH	\$82,000
6 INCH	TBD
8 INCH	TBD
10 INCH	TBD

Sewer Lift Station Maintenance Fee-----\$110,000/lift station (Ord. 08-119)

ORDINANCE NO. 02-18
AN ORDINANCE ADOPTING & ENACTING A CODIFICATION &
REVISION OF THE ORDINANCES OF THE CITY OF LAKELAND, TENNESSEE

WHEREAS, some of the ordinances of the City of Lakeland 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 Commissioners of the City of Lakeland, 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 "Lakeland Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF LAKELAND, AS FOLLOWS:

- 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 "Lakeland 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 dedication, 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 therefore; 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. Also saved from repeal are The City of Lakeland Tree Management Ordinance passed on final reading on 02/01/2001; The City of Lakeland Cell Tower Ordinance passed on final reading on 09/07/2000; Lakeland Ordinance # 01-15, Establishing September 20, 2001 as the 2001 Municipal Election Date and Establishing the Date for Subsequent Municipal Elections, passed on final reading on 03/01/2001; and all Ordinances passed after the date of February 07, 2002.
- 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.

ORDINANCE NO. 02-18
AN ORDINANCE ADOPTING & ENACTING A CODIFICATION &
REVISION OF THE ORDINANCES OF THE CITY OF LAKE LAND, TENNESSEE

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ORIGINAL

Continued from previous page

Section 5

Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6.

Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7.

Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of commissioners, 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

ORDINANCE NO. 02-18
AN ORDINANCE ADOPTING & ENACTING A CODIFICATION &
REVISION OF THE ORDINANCES OF THE CITY OF LAKE LAND, TENNESSEE

ORIGINAL


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.

First Reading: August 08, 2002.
Public Hearing: October 03, 2002.
Final Reading: November 07, 2002.



Scott Carmichael, Mayor

ATTEST: 

Sontidra Franklin, City Recorder

