

**THE
MILAN
MUNICIPAL
CODE**

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

December 1998

Change 9
October 10, 2023

CITY OF MILAN, TENNESSEE

MAYOR

B. W. Beasley

VICE MAYOR

James Fountain

ALDERMEN

Richard Adkisson
Lee Alexander
Hal Holmes
Jeff Lifsey
Michael McAdoo
Clay McCoy
Tammy Wade

RECORDER

Autumn Stewart

PREFACE

The Milan Municipal Code contains the codification and revision of the ordinances of the City of Milan, 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, Administrative Services Assistant, Linda Dean, the MTAS Sr. Word Processing Specialist, and Bobbie J. Sams, 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**

Ordinances. Any action of the Board having a regulatory or penal effect, awarding franchises, or required to be done by ordinance under this Charter or the general laws of the State, shall be done only by ordinance. Other actions may be accomplished by resolutions or motions. Ordinances and resolutions shall be in written form before being introduced. The enacting clause of ordinances shall be "Be it ordained by the Board of Mayor and Aldermen of the City of Milan:". Every ordinance must be approved on two (2) readings and there shall be no more than one (1) reading on any one day. A majority of the Board of Mayor and Aldermen shall vote in favor of an ordinance or it shall be deemed as failed. An ordinance may receive first reading upon its introduction. Ordinances shall take effect upon final reading, adoption and being signed by the Mayor unless a different effective date is designated in the ordinance.

All duly enacted ordinances and this Charter shall be compiled in a well-bound volume(s) to be known as the "Milan Municipal Code." (Charter § 14)

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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

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

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. General rules of order.
- 1-103. Special meetings.
- 1-104. Adoption of ordinances and resolutions.
- 1-105. Quorum.
- 1-106. Mayor to preside, etc.
- 1-107. Committees.

1-101. Time and place of regular meetings. The board of mayor and alderpersons shall hold regular monthly meetings at 5:30 P.M. on the second Tuesday of each month at the city hall. (1973 Code, § 1-101, as amended by Ord.

¹Charter references

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

Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

²Charter references

Compensation: art. III, § 8.

Qualifications: art. III, § 3.

Term of office: art. III, § 1.

Vacancy in office: art. III, § 5.

#1997-01, April 1997, Ord. #1998-02, Jan. 1998, and Ord. #2023-13, Oct. 2023
Ch9_10-10-23)

1-102. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1973 Code, § 1-103, modified)

1-103. Special meetings. The mayor shall have power to call special meetings of the board at any time, and it shall be his duty to do so upon the written request of two or more members of the board.

When a special meeting of the board is called by the mayor it shall be his duty to see that reasonable notice thereof is given to all members of the board. (1973 Code, § 1-104)

1-104. Adoption of ordinances and resolutions. No ordinance or resolution shall be acted upon unless the same be reduced to writing.

No ordinance shall become a law at the meeting at which it originates unless it is passed by a unanimous vote upon two readings.

All ordinances shall be read twice before they become laws. (1973 Code, § 1-105)

1-105. Quorum. Five members of the board of mayor and aldermen shall constitute a quorum. (1973 Code, § 1-106)

1-106. Mayor to preside, etc. The mayor shall preside at all meetings of the board of mayor and aldermen, making known the wants and necessities of the city, and recommending such actions and measures as the welfare of the city shall demand. (1973 Code, § 1-107)

1-107. Committees. The mayor shall appoint such committees from the aldermen as he deems necessary to assist him in administering the affairs of the city. Such committees shall serve for such terms and have such duties as the mayor shall prescribe. (1973 Code, § 1-108)

CHAPTER 2

MAYOR¹

SECTION

1-201. Generally supervises city's affairs.

1-202. Executes city's contracts.

1-203. Performs duties required.

1-204. Compensation.

1-201. Generally supervises city's affairs. The mayor shall have general supervision of all city personnel and affairs and may require such reports as he may reasonably deem necessary to carry out his executive responsibilities. He shall see that all the laws and ordinances of the city are enforced. (1973 Code, § 1-201)

1-202. Executes city's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1973 Code, § 1-202)

1-203. Performs duties required by the board. The mayor shall perform such duties as may be required by the board of mayor and aldermen. (1973 Code, § 1-203)

1-204. Compensation. Effective January 1, 2016, the salary of the mayor shall be seventy thousand dollars (\$70,000.00) per year. In addition to the salary, the mayor shall have the option of a car allowance of four thousand eight hundred dollars (\$4,800.00) per year or the use of a city owned car, at a maximum cost of twenty thousand dollars (\$20,000.00). In addition to the salary and the option of a car allowance or use of a city owned car as set forth herein, the mayor shall be entitled to all other benefits of a full-time city employee including health insurance and retirement benefits. (as added by Ord. #1999-10, Oct. 1999, and replaced by Ord. #2015-5, Oct. 2015 *Ch 7_6-20-19*)

¹Charter references

Compensation: art. III, § 8.

Qualifications: art. III, § 3.

Term of office: art. III, § 1.

Vacancy in office: art. III, § 5.

CHAPTER 3

RECORDER

SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

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

1-304. Certification of recorder.

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by the board of mayor and aldermen and with such surety as may be acceptable to the board. (1973 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1973 Code, § 1-302)

1-303. To perform general clerical duties, etc. The recorder shall perform all clerical duties for the board of mayor and aldermen and for the city which are not otherwise assigned by the charter, this code, the board, or the mayor. She shall also have custody of, and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the city shall provide. (1973 Code, § 1-303)

1-304. Certification of recorder. The City of Milan adopts by reference the requirements of Public Acts 1994, chapter 648, which is attached to this ordinance and made a part thereof as if it were fully set out in the text of this ordinance.¹ (Ord. #1994-08, Nov. 1994)

¹See Ord. #1994-08, Nov. 1994, of record in the recorder's office for Milan's adoption of Public Acts 1994, chapter 648 requiring certification for the city recorder.

CHAPTER 4

CODE OF ETHICS

SECTION

- 1-401. Applicability.
- 1-402. Definitions.
- 1-403. Gift ban.
- 1-404. Gift ban exceptions.
- 1-405. Disposition of gifts.
- 1-406. Disclosure of personal interests by official with votes.
- 1-407. Disclosure of personal interests in nonvoting matters.
- 1-408. City recorder to maintain disclosure files.
- 1-409. Ethics complaints.
- 1-410. Violations.

1-401. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. # 07-05, June 2007)

1-402. Definitions. For the purpose of interpreting this chapter, the following words, terms, and phrase shall have the meanings ascribed to them in this section:

- (1) "City" means the municipality of Milan, Tennessee.
- (2) "Gift" means the transfer or conveyance of anything of economic value, regardless of form, without adequate and lawful consideration.
- (3) "Immediate family" means parents, spouse and children.
- (4) "Personal interest" means:
 - (a) The holding or acquisition of any financial or ownership interest of either ten thousand dollars (\$10,000.00) or five percent (5.00%) or greater in a business entity that has or is negotiating a contract of one thousand dollars (\$1,000.00) or more with the city, or is regulated by any agency of the city; or
 - (b) The ownership of any real estate having a value of one thousand dollars (\$1,000.00) or greater which the city has or is negotiating an acquisition, leasehold, or easement agreement; or
 - (c) Any such financial or ownership interest as defined in §§ 1-402(4)(a) and 1-402(4)(b) of this chapter by the officer or employee's spouse or immediate family member. (as added by Ord. # 07-05, June 2007)

1-403. Gift ban. Except as permitted in § 1-404 of this chapter, no official or employee, nor any immediate family member of such official or employee for whom this chapter is applicable, shall intentionally or knowingly solicit or accept any gift as defined herein. (as added by Ord. # 07-05, June 2007)

1-404. Gift ban exceptions. § 1-403 of this chapter is not applicable to the following:

(1) Opportunities, benefits, and services that are available on the same conditions as for the general public.

(2) Anything for which the officer or employee, or a member of his or her immediate family, pays the fair market value.

(3) Any contribution that is lawfully made to the officer or employee's political campaign fund, or to that of his or her immediate family, including any activities associated with a fund raising event in support of a political organization or candidate.

(4) Educational materials provided for the purpose of improving or evaluating municipal programs, performance, or proposals.

(5) A gift from a relative, meaning those persons related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiance or fiancée.

(6) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as:

(a) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; and

(b) Whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

(c) Whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.

(7) Food or refreshments not exceeding fifty dollars(\$50.00) per person in value on a single calendar day; provided that the food or refreshments are:

- (a) Consumed on the premises from which they were purchased or prepared; or
- (b) Catered.

For the purpose of this chapter, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

(8) Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(9) Intra-governmental and inter-governmental gifts. For the purpose of this chapter, "intra-governmental gift" means any gift that is given to an officer or employee from another officer or employee, and "intergovernmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(10) Bequests, inheritances, and other transfers at death.

(11) Ceremonial gifts or awards which have insignificant monetary value.

(12) Unsolicited gifts of nominal value or trivial items of informational value. (as added by Ord. # 07-05, June 2007)

1-405. Disposition of gifts. An officer or employee, his or her spouse or an immediate family member, does not violate this chapter if the recipient promptly takes reasonable action to return a prohibited gift to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under section 501(c)(3) of the Internal Revenue code of 1986, as now or hereafter amended, renumbered, or succeeded. (as added by Ord. # 07-05, June 2007)

1-406. Disclosure of personal interests 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 the official's vote on the measure. Additionally, the official may recuse himself or herself from voting on the measure. (as added by Ord. # 07-05, June 2007)

1-407. Disclosure of personal interests in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects the exercise of discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the city

recorder. In addition, the official or employee may, to the extent allowed bylaw, charter, ordinance, or policy, recuse himself or herself from the exercise of discretion in the matter. (as added by Ord. # 07-05, June 2007)

1-408. City recorder to maintain disclosure file. The city recorder shall keep and maintain all financial disclosure statements required to be filed herein as public records and shall retain them for a period of seven (7) years after which the statements shall be destroyed. (as added by Ord. # 07-05, June 2007)

1-409. Ethics complaints. (1) The city attorney is designated as the ethics officer of the city. Upon the written request of an official or employee potentially affected by a provision of the chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable laws.

(2) Except as otherwise provided in this chapter, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations to end any activity that in the attorney's judgment, constitutes a violation of this chapter. The city attorney may request that the city mayor and board of alderpersons retain another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(3) When a complaint of a violation of any provision of this chapter is lodged against the mayor or an alderperson, the mayor and alderpersons 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 mayor and alderpersons determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the mayor and board of alderpersons. (as added by Ord. # 07-05, June 2007)

1-410. 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 city charter or other applicable law and, in addition, is subject to censure by the mayor and board of alderpersons. The city attorney, or municipal employee who violates any provision of this chapter is subject to disciplinary action up to, and including, termination of employment. (as added by Ord. # 07-05, June 2007)

TITLE 2**BOARDS AND COMMISSIONS, ETC.****CHAPTER**

1. CITY SCHOOL SYSTEM; BOARD OF EDUCATION.
2. PARK AND RECREATION BOARD.

CHAPTER 1**CITY SCHOOL SYSTEM; BOARD OF EDUCATION****SECTION**

- 2-101. City school system to be established and maintained.
- 2-102. Board of education; composition; qualifications; election; and terms of.
- 2-103. Four (4) members of board elected each year.
- 2-104. Vacancies.
- 2-105. Powers of the board of education.
- 2-106. Special school taxes.
- 2-107. School properties.
- 2-108. General power of board of mayor and aldermen.
- 2-109. Finance committee must authorize expenditures.
- 2-110. Solicitations and sales promotions restricted.

2-101. City school system to be established and maintained. There shall be established and maintained, within the City of Milan, public schools of high grade as provided in the acts of Tennessee, passed June 12, 1885, and approved June 13, 1885, entitled, "An act to more fully authorize municipal corporations to establish and maintain public schools of high grade and to amend the common school law in relation thereto" the same having been adopted by the board of mayor and aldermen by ordinance duly enacted July 16, 1885. (1973 Code, § 1-1001)

2-102. Board of education; composition; qualifications; election; and terms of. The board of education shall consist of nine (9) members. After being nominated by petition, there shall be elected by the qualified voters of the city eight (8) members of the board of education, two (2) members from each ward to be elected by the qualified voters of the said wards, and two (2) members to be elected from the qualified voters of the city at large, and one (1) alderman to be appointed annually by the mayor and board of aldermen. Board members shall be resident citizens of the city, over eighteen (18) years of age, and, except for the appointed alderman, a parent of a child or children within the school system. The term of office shall be for two (2) years, commencing on

January 1st following their election, and until a successor is elected and qualified. (1973 Code, § 1-1002)

2-103. Four (4) members of board elected each year. Four (4) members of the said board shall be elected each year, one (1) from each ward and one (1) from the city at large, beginning on the first Tuesday after the first Monday in November, 1976, and on the first Tuesday after the first Monday in November of each succeeding year at the regular municipal elections, and the election of members shall be such that the terms of four (4), and only four (4), shall expire at the end of each year. (1973 Code, § 1-1003)

2-104. Vacancies. Any vacancy shall be filled at the municipal election next following the occurrence of such vacancy, or at a special election held for that purpose. (1973 Code, § 1-1004)

2-105. Powers of the board of education. The board shall have powers as trustees and directors to manage and control the public schools of the city, to elect and employ well qualified teachers, and to prescribe all needful rules and regulations. (1973 Code, § 1-1005)

2-106. Special school taxes. There shall be levied a special tax upon all taxable polls, privileges, and property within the corporate limits for the purpose of aiding and maintaining the public schools of the city, which shall be levied, assessed, and collected as other city taxes. (1973 Code, § 1-1006)

2-107. School properties. The board of mayor and aldermen shall have charge and control of all public school property belonging to the city or available for use by lease or otherwise. (1973 Code, § 1-1007)

2-108. General power of board of mayor and aldermen. The board of mayor and aldermen may do every act or acts that may be necessary to carry out or make effective the schools as contemplated by the law creating such schools. (1973 Code, § 1-1008)

2-109. Finance committee must authorize expenditures. The salaries of teachers and all other employees employed by, as well as all other expenses incurred by, the board of education shall be paid only upon the recommendation of the finance committee of said board. (1973 Code, § 1-1009)

2-110. Solicitations and sales promotions restricted. All officers and employees employed at the city schools of Milan, Tennessee, are prohibited from promoting, procuring, or inducing the sale of merchandise, magazines, papers, and periodicals or other articles, or from permitting the same to be done under the auspices of the various schools or the officers or employees thereof by

children enrolled in the Milan schools. Provided, however, that the periodicals, magazines, and annuals, and advertisements inserted therein, published by or for said schools, tickets to school plays, athletic events, and other school functions, merchandise sold as concessions at athletic games or other school functions or activities or homemade products sold by the students are excepted. Provided, further, the sponsorship of magazine sales and the sale of magazines or magazine subscriptions will be permitted by students in the 6th and higher grades of the public schools of the City of Milan, Tennessee. P r o v i d e d , further, that subject to the approval of the city board of education, and subject to any restrictions and conditions imposed by the said board of education, the Quarterback Club of the Milan High School shall be permitted to sell spaces on the perimeter fence of Johnnie Hale Stadium to sponsors made up of individuals, businesses and industrial purchasers and/or users. (1973 Code, § 1-1011)

CHAPTER 2

PARK AND RECREATION BOARD

SECTION

- 2-201. Creation and membership.
- 2-202. Appointment of board members.
- 2-203. Officers.
- 2-204. Vacancies.
- 2-205. Duties.
- 2-206. Members to serve without compensation.
- 2-207. Finances.

2-201. Creation and membership. There is hereby established the Park and Recreation Board for the City of Milan, Tennessee, to be composed of four (4) voting members and the parks and recreation director as an ex-officio member with no voting power. (Ord. #1994-04, May 1994, as amended by Ord. #01-1, Feb. 2001)

2-202. Appointment of board members. In the January board meeting the mayor will recommend to the board of aldermen the appointments of four (4) people to serve a one year term. All such appointments shall be ratified and approved by the mayor and board of aldermen before such appointments become final. (Ord. #1994-04, May 1994, as replaced by Ord. #01-1, Feb. 2001)

2-203. Officers. The officers on the park and recreations board shall be a chair and secretary elected from the board. The election will take place at the February meeting. The board shall regularly meet on the first Thursday each month at city hall. The secretary shall provide the mayor a copy of all the minutes of all meetings within 7 days of the meeting. Notification of the monthly meeting shall be sent out annually by the city recorder to all members of the board and media. (Ord. #1994-04, May 1994, as amended by Ord. #01-1, Feb. 2001)

2-204. Vacancies. In the event of a vacancy on the parks and recreation board the mayor will recommend the replacement at the next mayor and board of aldermen meeting. The replacement shall serve the remainder of the calendar year of the term. (Ord. #1994-04, May 1994, as amended by Ord. #01-1, Feb. 2001)

2-205. Duties. The park and recreation board shall have the duty of making recommendations concerning capital requests, maintaining the parks and recreation facilities, and policy/rules and enforcement of the policy/rules to

the mayor and board of aldermen. (Ord. #1994-04, May 1994, as amended by Ord. #01-1, Feb. 2001)

2-206. Members to serve without compensation. The members of said board shall receive no compensation or other benefits. (Ord. #1994-04, May 1994)

2-207. Finances. The board of mayor and aldermen shall make appropriations to the park and recreation board for recreational purposes as it sees fit, and in addition, the said board is authorized to accept gifts and grants from private persons or agencies and shall use such money wisely and prudently for the good of the people of Milan. (Ord. #1994-04, May 1994)

TITLE 3

MUNICIPAL COURT

CHAPTER

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

CHAPTER 1

CITY JUDGE¹

SECTION

3-101. City judge.

3-101. City judge. 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 city judge. (1973 Code, § 1-501)

¹Charter reference: art. VI, § 1A.

CHAPTER 2

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines, penalties, and costs.
- 3-203. Disposition and report of fines, penalties, and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Trial and disposition of cases.
- 3-206. Electronic citation regulations and fees.

3-201. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1973 Code, § 1-502)

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

In all cases heard or determined by the city judge, the city judge shall levy a municipal litigation tax at the maximum amount permitted by Tennessee law on all cases in which Tennessee law allows such litigation tax to be levied, impose fines and penalties, and assess municipal court costs in amounts determined by the board of mayor and aldermen, all of which shall be upon collection paid into the city's general fund. (1973 Code, § 1-508, as amended by Ord. #2018-15, July 2018 *Ch7_6-20-19*)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1973 Code, § 1-511)

3-204. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1973 Code, § 1-512)

3-205. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1973 Code, § 1-506)

3-206. Electronic citation regulations and fees. (1) As used in this section, "electronic citation" means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense.

(2) Pursuant to and in accordance with the state statutory requirements found in Tennessee Code Annotated, § 55-10-207(e), each court clerk shall charge and collect an electronic citation fee of five dollars (\$5.00) for each citation which results in a conviction. (as added by Ord. #2015-4, June 2015)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants.¹ The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1973 Code, § 1-503)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1973 Code, § 1-504)

3-303. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1973 Code, § 1-505)

¹State law reference

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

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

3-403. Bond amounts, conditions, and forms.

3-401. Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1973 Code, § 1-507)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (1973 Code, § 1-509)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1973 Code, § 1-510)

¹State law reference

Tennessee Code Annotated, § 27-5-101.

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

1. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES.
2. VACATIONS, SICK LEAVE, AND HOLIDAYS.
3. MISCELLANEOUS PERSONNEL REGULATIONS.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
5. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1**SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES****SECTION**

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

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the City of Milan, Tennessee, to provide for all eligible employees and officials of the city, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1973 Code, § 1-701)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1973 Code, § 1-702)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1973 Code, § 1-703)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1973 Code, § 1-704)

4-105. Records and reports to be made. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1973 Code, § 1-705)

CHAPTER 2

VACATIONS, SICK LEAVE, AND HOLIDAYS

SECTION

- 4-201. Applicability of chapter.
- 4-202. Vacation leave.
- 4-203. Sick leave.
- 4-204. Leave records.
- 4-205. Holidays.

4-201. Applicability of chapter. This chapter shall apply to all full-time employees of the City of Milan and Milan Public Utilities. (1973 Code, § 1-801, as replaced by Ord. #2021-8, Nov. 2021 *Ch8_01-11-22*)

4-202. Vacation leave. All full-time employees shall accrue paid vacation leave benefits on a schedule and on such terms as determined by the board of mayor and aldermen. Unused accrued vacation benefits shall be paid to the employee at termination of employment so long as the employee provided notice of resignation to the employee's department head at least two (2) weeks prior to the termination of employment. (1973 Code, § 1-802, as replaced by Ord. #2021-8, Nov. 2021 *Ch8_01-11-22*)

4-203. Sick leave. All full-time employees shall accrue paid sick leave benefits on a schedule and on such terms as determined by the board of mayor and aldermen. Unused accrued sick leave benefits shall not be paid to the employee at termination of employment. (1973 Code, § 1-803, modified, as replaced by Ord. #2021-8, Nov. 2021 *Ch8_01-11-22*)

4-204. Leave records. The mayor shall cause to be kept, for each officer and employee, a record currently up to date at all time showing credit earned and leave taken under this chapter. (1973 Code, § 1-804)

4-205. Holidays. Full-time employees shall have paid time off for holidays as approved by the board of mayor and aldermen. (1973 Code, § 1-805, as replaced by Ord. #2021-8, Nov. 2021 *Ch8_01-11-22*)

CHAPTER 3

MISCELLANEOUS PERSONNEL REGULATIONS

SECTION

- 4-301. Business dealings.
- 4-302. Acceptance of gratuities.
- 4-303. Outside employment.
- 4-304. Political activity.
- 4-305. Use of city time, facilities, etc.
- 4-306. Use of position.
- 4-307. Strikes and unions.

4-301. Business dealings. Except for the receipt of such compensation as may be lawfully provided for the performance of his city duties, it shall be unlawful for any city officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the city. (1973 Code, § 1-901)

4-302. Acceptance of gratuities. No city officer or employee shall accept any money or other consideration or favor from anyone other than the city for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to city business. (1973 Code, § 1-902)

4-303. Outside employment. No full-time officer or employee of the city shall accept any outside employment without written authorization from the mayor. The mayor shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his city employment, or is likely to cast discredit upon or create embarrassment for the city. (1973 Code, § 1-903)

4-304. Political activity. City officers and employees may individually exercise their right to vote and privately express their political views as citizens. However, no city officer or employee shall solicit political campaign contributions or engage in or actively participate in any city political campaign. These restrictions shall not apply to elective officials or to off-duty law enforcement officers acting as private citizens. (1973 Code, § 1-904, modified)

4-305. Use of city time, facilities, etc. No city officer or employee shall use or authorize the use of city time, facilities, equipment, or supplies for private gain or advantage to himself or any other private person or group.

Provided, however, that this prohibition shall not apply where the board of mayor and aldermen has authorized the use of such time, facilities, equipment, or supplies, and the city is paid at such rates as are normally charged by private sources for comparable services. (1973 Code, § 1-905)

4-306. Use of position. No city officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the city, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others. (1973 Code, § 1-906)

4-307. Strikes and unions. No city officer or employee shall participate in any strike against the city, nor shall he join, be a member of, or solicit any other city officer or employee to join any labor union which authorizes the use of strikes by government employees. (1973 Code, § 1-907)

CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

- 4-401. Title.
- 4-402. Purpose.
- 4-403. Coverage.
- 4-404. Standards authorized.
- 4-405. Variances from standards authorized.
- 4-406. Administration.
- 4-407. Funding the program plan.
- 4-408.--4-415. [Deleted.]

4-401. Title. This chapter shall be known as The Occupational Safety and Health Program Plan for the Employees of the City of Milan. (1973 Code, § 1-1301, as replaced by Ord. #2013-8, Sept. 2013)

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

(1) Provide a safe and healthful place and condition of employment that includes:

- (a) Top management commitment and employee involvement;
- (b) Continually analyze the worksite to identify all hazards and potential hazards;
- (c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and
- (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

(2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.

(3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

¹The plan of operation for the City of Milan's Occupational Safety and Health Program is included as Appendix A.

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (1973 Code, § 1-1302, as replaced by Ord. #2013-8, Sept. 2013)

4-403. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Milan shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1973 Code, § 1-1303, as replaced by Ord. #2013-8, Sept. 2013)

4-404. Standards authorized. The occupational safety and health standards adopted by the City of Milan 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 (1973 Code, § 1-1304, as replaced by Ord. #2013-8, Sept. 2013)

4-405. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (1973 Code, § 1-1305, as replaced by Ord. #2013-8, Sept. 2013)

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

4-406. Administration. For the purposes of this chapter, Steven Dillard is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions for the Public Sector, chapter 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (1973 Code, § 1-1306, as replaced by Ord. #2013-8, Sept. 2013)

4-407. Funding the program plan. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Milan Board of Aldermen. (1973 Code, § 1-1309, as replaced by Ord. #2013-8, Sept. 2013)

4-408.--4-415. [Deleted.] (1973 Code, § 1-1308--1-1315, as deleted by Ord. #2013-8, Sept. 2013)

CHAPTER 5

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

4-501. Enforcement.

4-502. Travel policy.

4-503. Travel reimbursement rate schedule.

4-504. Administrative procedures.

4-505. Mayor and building inspector using their own car for city business.

4-501. Enforcement. The chief administrative officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #71, Sept. 1993)

4-502. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

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

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

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

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

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

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

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

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

Expenses considered excessive won't be allowed.

(7) Claims of \$5 or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

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

(9) Mileage and motel expenses incurred within the city aren't ordinarily considered eligible expenses for reimbursement. (Ord. #71, Sept. 1993)

4-503. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the federal travel regulation rates. The city's travel reimbursement rates will automatically change when the federal rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #71, Sept. 1993)

4-504. Administrative procedures. (1) Travel documentation. It is the responsibility of the authorized traveler to:

(a) Prepare and accurately describe the travel;

(b) Certify the accuracy of the reimbursement request;

(c) Note on the reimbursement form all direct payments and travel advances made by the city; and

(d) File the reimbursement form with the necessary supporting documents and original receipts.

(2) Vehicles. (a) Personal vehicle. Employees should use city vehicles when possible. Use of a private vehicle must be approved in advance by the CAO. The city will pay a mileage rate not to exceed the rate allowed by the federal reimbursement schedule. The miles for reimbursement shall be paid from origin to destination and back by the most direct route. Necessary vicinity travel related to official city business will be reimbursed. However, mileage in excess of the RandMcNally mileage must be documented as necessary and business related. If an indirect route is taken, the Rand-McNally table will be used to determine the mileage to be reimbursed.

If a privately owned automobile is used by two or more travelers on the same trip, only the traveler who owns or has custody of the automobile will be reimbursed for mileage. It's the responsibility of the

traveler to provide adequate insurance to hold harmless the city for any liability from the use of the private vehicle.

Travelers won't be reimbursed for automotive repair or breakdowns when using their personal vehicle.

(b) City vehicle. The city may require the employee to drive a city vehicle. If a city vehicle is provided, the traveler is responsible for seeing that the vehicle is used properly and only for acceptable business. The employee will be reimbursed for expenses directly related to the actual and normal use of the city vehicle when proper documentation is provided. Out-of-town repair cost to the city vehicle in excess of \$100 must be cleared with the proper city official before the repair is authorized.

Fines for traffic or parking violations won't be reimbursed by the city.

Reasonable tolls will be allowed when the most direct travel route requires them.

Reimbursement claims for taxis, limousines, or other ground transportation must be listed separately on the expense form, claiming the destination and amount of each fare.

(3) Lodging. The amount allocated for lodging shall not ordinarily exceed the maximum per diem rates authorized by the federal rate schedule.

(a) Original lodging receipts must be submitted with the reimbursement form. Photocopies aren't acceptable.

(b) If a traveler exceeds the maximum lodging per diem, excess costs are the responsibility of the traveler.

(c) If the best rate is secured, and it still exceeds the maximum lodging per diem, the CAO may authorize a higher reimbursement amount.

Even if it costs more, travelers may be allowed to stay at the officially designated hotel of the meeting; however, more moderately priced accommodations must be requested whenever possible. It will be the traveler's responsibility to provide documentation of the "officially designated meeting site" room rates, if these rates are higher than the normal reimbursable amounts.

(4) Meals and incidentals. Receipts are required for meals and incidentals. The authorized traveler may be reimbursed up to the daily amount based on the rate schedule and the authorized length of stay.

Whether meals may be claimed depends on when the traveler leaves and returns to the official station. The traveler's official station is home or work, whichever produces the least cost to the city. When partial day travel is involved, the current per diem allowance is determined as follows:

<u>MEAL</u>	<u>IF DEPARTURE BEFORE</u>	<u>IF RETURN AFTER</u>
Breakfast	7:00 A.M.	8:00 A.M.
Lunch	11:00 A.M.	1:30 P.M.
Dinner	5:00 P.M.	6:30 P.M.

(5) Miscellaneous expenses. (a) Registration fees for approved conferences, conventions, seminars, meetings, and other educational programs will be allowed and will generally include the cost of official banquets, meals, lodging, and registration fees.

(b) The traveler may be reimbursed for personal phone calls while on official travel, but the amount will be limited to \$5.00 per day.

(c) A \$4.00 allowance will be reimbursable for hotel/motel check-in and baggage handling expenses.

(d) Laundry, valet service, tips and gratuities are considered personal expenses and aren't reimbursable.

(6) Entertainment. The city may pay for certain entertainment expenses provided that:

(a) The entertainment is appropriate in the conduct of city business;

(b) The entertainment is approved by the CAO;

(c) The group or individuals involved are identified; and

(d) Documentation is attached to the expense form to support the entertainment expense claims.

(7) Travel reconciliation. (a) If the city provided a travel advance or made advanced payment, the traveler should include that information on the expense form. In the case of advances, the form should have a reconciliation summary, reflecting total claimed expenses with advances and city prepayments indicated. The balance due to the traveler or the refund due the city should be clearly shown below the total claim on the form or in a cover memo attached to the front of the form.

(b) If the traveler received a travel advance and spent less than the advance, the traveler should attach a check made payable to the city for that difference.

(c) The CAO will address special circumstances and issues not covered in this section on a case-by-case basis.

(8) Disciplinary action. Violation of the travel rules can result in disciplinary action for employees. Travel fraud can result in criminal prosecution of officials and/or employees. (Ord. #71, Sept. 1993)

4-505. Mayor and building inspector using their own car for city business. The building inspector shall be given the state rate of reimbursement

for mileage turned in and approved by the mayor on a monthly expense report for inspection within the boundaries of the City of Milan.

Required trips outside the city and regular routine of inspection will be governed by the ordinance on travel reimbursement for city officials and city employees conducting official business.

The mayor, who is responsible for operation of the city seven days a week, and supplies his own vehicle shall be provided gas and servicing for the vehicle by the city.

He also will be reimbursed under the ordinance on travel reimbursement for city officials and city employees conducting official business. No reimbursement for mileage will be provided within the city or county for his or her vehicle. (Ord. #72, Sept. 1993)

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

1. REAL PROPERTY TAXES.
2. PRIVILEGE AND BUSINESS TAXES GENERALLY.
3. WHOLESALE BEER TAX.
4. LOCAL SALES TAX.
5. PURCHASING.

CHAPTER 1**REAL PROPERTY TAXES****SECTION**

- 5-101. Amounts rounded to the nearest dollar.
5-102. When due and payable.
5-103. When delinquent--penalty and interest.

5-101. Amounts rounded to the nearest dollar. Individual ad valorem property tax amounts shall be rounded to the nearest dollar. Such roundings shall be applied uniformly to all property tax bills in the municipality for real and personal property, and shall be accomplished by rounding amounts ending in \$0.01 to \$0.49 down to the nearest dollar, and amounts ending in \$0.50 to \$0.99 up to the nearest dollar. Such rounding shall apply only to the tax amount, and not to any interest or penalty added to delinquent taxes. (Ord. #1994-09, Nov. 1994)

¹Charter reference: art. IV.

5-102. When due and payable.¹ Taxes levied by the city against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1973 Code, § 6-101)

5-103. When delinquent--penalty and interest.² All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed for delinquent municipal taxes in Tennessee Code Annotated, § 67-1-801(c).³ (1973 Code, § 6-102)

¹State law references

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

²Charter and state law reference

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

³Charter and state law references

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

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under Tennessee Code Annotated, §§ 6-55-201--6-55-206.
- (3) By the county trustee under Tennessee Code Annotated, § 67-5-2005.

CHAPTER 2

PRIVILEGE AND BUSINESS TAXES GENERALLY

SECTION

5-201. Tax levied.

5-202. License required.

5-201. 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 equal to the amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the said act. (1973 Code, § 6-201)

5-202. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1973 Code, § 6-202)

CHAPTER 3**WHOLESALE BEER TAX****SECTION**

5-301. To be collected.

5-301. 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 (1973 Code, § 6-301)

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 4

LOCAL SALES TAX

SECTION

- 5-401. Tax levied; rates; exceptions; penalties and interest.
- 5-402. When collection to begin.
- 5-403. City to contract with state for collection.
- 5-404. Suits for recovery of tax illegally assessed or collected.
- 5-405. Copy of ordinance to be furnished to state and published.

5-401. Tax levied; rates; exceptions; penalties and interest. As authorized by Tennessee Code Annotated, §§ 67-6-701 through 67-6-712, there is hereby levied a tax in the same manner and on the same privileges subject to the Retailers' Sales Tax Act under title 67, Chapter 6, Parts 1-6 of the Tennessee Code Annotated, as the same may be amended, which are exercised in Milan, Tennessee. The tax is levied on all such privileges at a rate of .50 percent in addition to the state rate of 6.0 percent and the county rate of 2.25 percent for a total tax rate of 8.75 percent on taxable privileges exercised in Milan, Tennessee. (Ord. #1994-05, May 1994)

5-402. When collection to begin. If a majority of those voting in the election required by Tennessee Code Annotated, § 67-6-706, vote for the ordinance, collection of the tax levied by this ordinance shall begin on the first day of a month occurring thirty (30) or more days after the county election commission makes it official canvass of the election returns. (Ord. #1994-05, May 1994)

5-403. City to contract with state for collection. It having been determined by the Department of Revenue of the State of Tennessee that it is feasible for this tax to be collected by the department, that determination being evidenced by local option sales and use tax rules and regulations heretofore promulgated by the Tennessee Department of Revenue, the department shall collect the tax concurrently with the collection of the state tax in the same manner as the state sales tax is collected in accordance with rules and regulations promulgated by the department. The mayor is hereby authorized to contract with the department for the collection of the tax by the department and to provide in the contract that the department may deduct from the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of the tax. (Ord. #1994-05, May 1998)

5-404. Suits for recovery of tax illegally assessed or collected. In the event the tax is collected by the Department of Revenue, suits alleging that

the tax was illegally assessed or collected shall be brought against the Tennessee Commissioner of Revenue and the mayor. (Ord. #1994-05, May 1994)

5-405. Copy of ordinance to be furnished to state and published.

A certified copy of this ordinance shall be transmitted to the Department of Revenue by the city recorder forthwith and shall be published one time in a newspaper of general circulation in Milan, Tennessee, prior to the election referred to in § 5-402 hereof. (Ord. #1994-05, May 1994)

CHAPTER 5**PURCHASING****SECTION**

5-501. Maximum amount for purchases without advertisement and competitive bidding.

5-502. Maximum amount for purchases without advertisement and competitive bidding for Milan Public Utilities.

5-501. Maximum amount for purchases without advertisement and competitive bidding. Purchases of ten thousand dollars (\$10,000.00) or less in any fiscal year shall not require any public advertisement or competitive bidding. (as added by Ord. #06-04, Oct. 2006, and replaced by Ord. #12-01, March 2012)

5-502. Maximum amount for purchases without advertisement and competitive bidding for Milan Public Utilities. Notwithstanding any provision of this chapter to the contrary, the Superintendent of Milan Public Utilities is authorized to let all contracts, subject to the approval of the board of mayor and alderman, but the superintendent may, without such approval, obligate Milan Public Utilities on purchase orders concerning the electric plant not to exceed sixty thousand dollars (\$60,000.00). For purposes of this section, the term "electric plant" shall have the same meaning as such term is defined in the Municipal Electric Plant Law of 1935. (as added by Ord. #2016-18, Oct. 2016 *Ch7_6-20-19*, and replaced by Ord. #2023-10, July 2023 *Ch9_10-10-23*)

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

1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1**POLICE AND ARREST¹****SECTION**

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Policemen to wear uniforms and be armed.
- 6-104. When policemen to make arrests.
- 6-105. Policemen may require assistance.
- 6-106. Disposition of persons arrested.
- 6-107. Police department records.
- 6-108. Employment and training of police officers.

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1973 Code, § 1-401)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1973 Code, § 1-402)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the board of mayor and aldermen shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1973 Code, § 1-403)

6-104. When policemen to make arrests¹. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

¹Municipal code reference

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

- (1) Whenever he is in possession of a warrant for the arrest of the person.
- (2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.
- (3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1973 Code, § 1-404)

6-105. Policemen may require assistance. It shall be unlawful for any person to willfully refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary. (1973 Code, § 1-405)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested for any offense other than one involving drunkenness he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1973 Code, § 1-406)

6-107. Police department records. The police department shall keep a comprehensive and detailed daily record in permanent form, showing:

- (1) All known or reported offenses and/or crimes committed within the corporate limits.
- (2) All arrests made by policemen.
- (3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1973 Code, § 1-407)

6-108. Employment and training of police officers. The requirements of Tennessee Code Annotated, title 38, chapter 8, for employment and training of police officers, are hereby approved and adopted for the City of Milan.¹ (1973 Code, § 1-408)

¹The provisions in this section were taken substantially from the resolution of the board adopted on July 10, 1970.

CHAPTER 2**WORKHOUSE****SECTION**

6-201. County workhouse or city jail to be used.

6-202. Inmates to be worked.

6-203. Compensation of inmates.

6-201. County workhouse or city jail to be used. The county workhouse is hereby designated as the city workhouse, subject to such contractual arrangement as may be worked out with the county. The city jail may also be used as the workhouse. (1973 Code, § 1-601)

6-202. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1973 Code, § 1-602)

6-203. Compensation of inmates. Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines and costs assessed against him. (1973 Code, § 1-603)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE CITY LIMITS.
5. FIREWORKS.
6. OPEN BURNING.
7. FIRE HYDRANTS.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be and include all that area zoned in the city's zoning ordinance for general business uses. (1973 Code, § 7-101)

¹Municipal code reference

Building, utility and housing codes: title 12.

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. International fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. [Repealed.]
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. [Repealed.]
- 7-208. Uniform color scheme for fire hydrants.
- 7-209. Available in recorder's office.

7-201. International fire code adopted. (1) That a certain document, three (3) copies of which are on file in the office of the Milan City Recorder, being marked and designated as the International Fire Code,² 2018 edition, including all appendices, with exception to appendix "L" which is excluded, as published by the International Code Council, be and is hereby adopted as the Fire Code of the City of Milan, Tennessee, regulating and governing the safekeeping of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials, and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code on file in the office of the Milan City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, deletions, and changes, if any, prescribed in subsection (2) of this section.

(2) Additions, deletions, and changes to the fire code. The following sections of the International Fire Code, 2009 edition, are hereby revised as follows:

- (a) The "City of Milan" shall be inserted in the blanks referring to the name of the jurisdiction.
- (b) Add the following text to Section 105.3.1 of the 2018 International Fire Code "Any work which has not had an inspection

¹Municipal code reference

Building, utility and housing codes: title 12.

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

within 180 days from issuance of the permit or has not had any subsequent required inspections within 180 days from previous inspections will be deemed that the work has been suspended or abandoned and the permit shall become invalid."

(c) Section 109.3 of the 2018 International Fire Code is amended by inserting the word "misdemeanor" in the appropriate blanks, and a maximum of fifty dollars (\$50.00) shall be specified; all references to imprisonment are deleted.

(d) Section 903.2.8 of the 2018 International Fire Code is amended by inserting the text "Exceptions: One and two family dwellings not more than three (3) stories in height."

(3) The blanks referring to the date of issuance shall be the effective date of this section. (1973 Code, § 7-201, as replaced by Ord. #2006-04, June 2006, and amended by Ord. #12-07, April 2012, Ord. #2018-5, March 2018 *Ch7_6-20-19*, and Ord. #2020-8, Nov. 2020 *Ch8_01-11-22*)

7-202. Enforcement. The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1973 Code, § 7-202, as amended by Ord. #2006-4, June 2006)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire code herein adopted, it shall be held to mean the City of Milan, Tennessee. (1973 Code, § 7-203, as amended by Ord. #2006-4, June 2006)

7-204. [Repealed.] (1973 Code, § 7-204, as repealed by Ord. #2006-4, June 2006)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1973 Code, § 7-205)

7-206. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (1973 Code, § 7-206, as amended by Ord. #2006-4, June 2006)

7-207. [Repealed.] (1973 Code, § 7-207, as amended by Ord. #2006-4, June 2006, and repealed by Ord. #2020-05, July 2020 *Ch8_01-11-22*)

7-208. Uniform color scheme for fire hydrants.

(1) Hydrants are to be classified as follows:

Class A: Hydrants that on individual test usually have a flow capacity of 1,000 gpm or greater.

Class B: Hydrants that on individual test usually have a flow capacity of 500 to 1,000 gpm.

Class C: Hydrants that on individual test usually have a flow capacity of less than 500 gpm.

Capacities are to be rated by flow measurements of individual hydrants at a period of ordinary demand. When initial pressures are over 40 psig at the hydrant under test, the rating is to be based upon 20-psig residual pressure, observed at the nearest hydrant connected to the same main and when no water is being drawn. When initial pressures are less than 40 psig, residual pressures shall be at least half of the initial.

(2) The following is the capacity-indicating color scheme:

(a) Public hydrants. All barrels are to be painted chrome yellow, except in cases where another color is desired. The tops and nozzle caps of hydrants in the classes outlined in (1) are to be painted as follows:

Class A-green

Class B-orange

Class C-red

(b) Private hydrants. Within private enclosures, the marking is to be at the discretion of the owners. Private hydrants in public streets should be painted to distinguish them from public hydrants.

(3) All location markers for flush hydrants should carry the same color background as stated for class indication.

(4) The colors shall signify only the approximate capacity of the individual hydrant as tested alone, and not its capacity when more than one hydrant in the vicinity is in use. The marking of the hydrant is not to be considered as in any way guaranteeing the capacity indicated by the color.

(5) Pumper trucks are prohibited from connecting to Class C fire hydrants with red tops and caps, or fire hydrants with flows less than 500 GPM at 20 PSI. (1973 Code, § 7-208)

7-209. Available in recorder's office. Pursuant to the requirements of § 6-54-502 Tennessee Code Annotated, one (1) copy of the International Fire Code, 2012 edition, has been placed on file in the office of the Milan City Recorder and shall be kept there for the use and inspection of the public during normal business hours. (as added by Ord. #2018-5, March 2018 *Ch7_6-20-19*)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Organization, rules, and regulations.

7-304. Records and reports.

7-305. Tenure and compensation of members.

7-306. Chief responsible for training and maintenance.

7-307. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the board of mayor and aldermen. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief appointed by the board of mayor and aldermen and such number of physically-fit subordinate officers and firemen as the chief shall approve. (1973 Code, § 7-301)

7-302. Objectives. The fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1973 Code, § 7-302)

7-303. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1973 Code, § 7-303)

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters

¹Municipal code reference

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

to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1973 Code, § 7-304)

7-305. Tenure and compensation of members. The chief of the fire department shall serve at the will of the board of mayor and aldermen. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department.

All personnel of the fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe. (1973 Code, § 7-305)

7-306. Chief responsible for training and maintenance. The chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1973 Code, § 7-306)

7-307. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1973 Code, § 7-308)

CHAPTER 4

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

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

7-401. Equipment to be used only within corporate limits generally. No equipment of the fire department shall be used for fighting any fire outside 3 1/2 miles from the corporate limits unless the fire is on city property or, in the opinion of the chief of the fire department, is in such hazardous proximity to property owned by or located within the city as to endanger the city property or unless expressly authorized in writing by the board of mayor and aldermen. (1973 Code, § 7-307, modified)

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Definitions.
- 7-502. Permits and permit fees.
- 7-503. Permit revocation.
- 7-504. Permissible fireworks.
- 7-505. Storing and structures.
- 7-506. Limitations on structures.
- 7-507. Location of fireworks outlets.
- 7-508. Additional standards for fireworks retailers.
- 7-509. Unlawful sale to certain children and other persons; unlawful use of fireworks.
- 7-510. Limited time period to use fireworks.
- 7-511. Manufacture prohibited.
- 7-512. Exemptions.
- 7-513. Violations and penalty.

7-501. Definitions. (1) As used in this chapter, unless the content otherwise requires:

(a) "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, Title 49, Code of Federal Regulations (CFR), parts 171-180:

(i) All articles of fireworks classified as 1.4G, or referred to as "Consumer Fireworks", or "Class C Common Fireworks;"

(ii) Theatrical and novelty, classified as 1.4S; or

(iii) Display fireworks, classified as 1.3G, commonly used for public displays.

(iv) Exceptions: (A) Toy caps for use in toy pistols, toy canes, or toy guns and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 CFR 173.100(P), and packed and shipped according to those regulations;

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

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

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

(c) "Permit" means the written authority of the City of Milan issued under the authority of this section.

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

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

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

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

(2) Singular words and plural words used in the singular include the plural and the plural as singular. (Ord. #1994-03, May 1994, as replaced by Ord. #09-4, Oct. 2009)

7-502. Permits and permit fees. (1) It is unlawful for any person to sell or to offer for sale in the City of Milan any item of fireworks without first having secured a state fire marshal permit and a permit issued by the City of Milan.

(a) No permit shall be issued to a person under eighteen (18) years of age.

(b) A permit (to sell fireworks to the general public) is valid only for the calendar year or any fractions thereof and shall expire on December 31. A grace period of two (2) days shall be allowed each holder of a permit.

(c) The application shall be accompanied by a non-refundable fee of one hundred dollars (\$100.00).

(d) Permits are not transferable.

(e) Schools, wedding groups, businesses, civic clubs, and similar groups desiring to have a 1.3G Special Display or 1.4G Consumer Fireworks display may obtain a permit from the City of Milan to use fireworks for any time of the year.

(2) A permit to sell fireworks in the City of Milan must be obtained at least one (1) week prior to the date on which the applicant begins making sales. Each application shall contain the following:

(a) The name, address, and telephone number of applicant.

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

(c) The applicant shall be the same person indicated on the state fire marshal permit.

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

(3) A copy of the state fire marshal permit. (For a state permit to be obtained by a retailer, the mayor must sign in behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location.)

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

(5) Mobile vendors are not permitted.

(6) Flashing signs are not permitted.

(7) Public display shall be performed only under supervision of a licensed pyrotechnician, and after the persons or organizations making such displays shall have applied for and received a permit for such display issued by the state fire marshal. Public display permits shall be limited to the time specified therein, and shall not be transferable. Applications for public/special display permits shall be made in writing at least ten (10) days in advance of the proposed display, and meet the following:

(a) The name, address, and telephone number of applicant.

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

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

(d) Submit a detailed site plan showing that the proposed display is to be so located and supervised that it shall not be hazardous to property and that it shall not endanger human lives.

(e) The applicant shall so state and shall bear the signed approval of the chief supervisory officials of the fire, police, and code enforcement departments of the City of Milan.

(9) After the application has been submitted and approved, a city codes inspector and/or fire official shall inspect the site for compliance with applicable codes and ordinances. (Ord. #1994-03, May 1994, as amended by Ord. #1996-01, Jan. 1996, and replaced by Ord. #09-4, Oct. 2009)

7-503. Permit revocation. (1) The codes director and/or fire marshal may revoke any permit immediately for any of the following:

(a) When the permittee or the permittee's operator violates any lawful rule, regulation, or order of the city codes director and/or fire marshal.

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

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

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

(e) When any activities of the permittee constitute a distinct hazard to life or property.

(2) An applicant denied a permit or whose permit contains conditions and restrictions shall have the right of an appeal to the board of aldermen within fourteen (14) days after denial or revocation of the permit containing conditions and restrictions by giving the city recorder written notice of appeal. (Ord. #1994-03, May 1994, as replaced by Ord. #09-4, Oct. 2009)

7-504. Permissible fireworks. (1) It is unlawful for any individual, firm, partnership, or corporation to sell or use within the City of Milan, except as provided in this chapter, any "fireworks" as defined in § 7-501(1)(a), other than the following:

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

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

(2) Any display using 1.3G Display Fireworks must be under the control of a licensed pyrotechnics technician. (Ord. #1994-03, May 1994, as replaced by Ord. #09-4, Oct. 2009)

7-505. Storing and structures. No person may smoke within a structure where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. At all entrances where fireworks are stored or sold, there must be posted signs with the words "Fireworks--No Smoking" in letters not less than four inches (4") high. Additional "No Smoking" signs required to be visible from inside on every side of the tent/building. An inspected and currently tagged portable fire extinguisher within thirty-five feet (35') of any point in the tent/building, and one pressurized water type fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding structure. Fireworks must be stored at least ten feet (10') away from windows and other areas where the sun may shine through. No fireworks shall be sold at retail at any location where paints, oils or varnishes are for sale or use unless kept in the original unbroken containers, nor where resin, turpentine, gasoline, or other flammable substance which may generate inflammable vapors is used, stored or sold. All aisles are to be kept free from obstructions at all times. Minimal additional retail is allowed to be stored under retail displays. This additional retail is to be kept enclosed in boxes and

these boxes are not to be in contact with the ground (at least a three inch (3") separation from contact with the ground is required) and retail is not to be stored in any way that rain water or ground moisture can infiltrate the boxes. No additional retail will be allowed to be stored in aisles. Fireworks are not permitted to be stored in residential districts, except for personal use. (Ord. #1994-03, May 1994, as replaced by Ord. #09-4, Oct. 2009)

7-506. Limitations on structures. Retail sales of fireworks is permissible in tents, provided that such tents meet the current adopted International Building Code and the International Fire Code. If tents are not factory labeled, the on-site attendant must have manufacturer documentation assuring the tent is fire retardant. All tents must be professionally installed and secured, are required to have at least two (2) unobstructed entrances. Ground fault interrupter protection must be used for power cords that supply power to tents and other outdoor structures. Electrical wiring inside tents and other outdoor locations shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. Fireworks may not be stored in a permanent building unless the building has a sprinkler system and is constructed of non-flammable materials such as metal or concrete block. (Ord. #1994-03, May 1994, as replaced by Ord. #09-4, Oct. 2009)

7-507. Location of fireworks outlets. Fireworks sales structures must be no closer than sixty feet (60') from any occupied building and must be located a minimum of forty-five feet (45') from the right-of-way. Fireworks storage and sales are permissible only within the B-1, B-2, B-3, and B-4 Districts, as shown on the Zoning Map of the City of Milan, Tennessee, and shall be subject to all conditions and restrictions contained in the Zoning Ordinance of Milan, Tennessee. (Ord. #1994-03, May 1994, as replaced by Ord. #09-4, Oct. 2009, and Ord. #2018-14, July 2018 *Ch7_6-20-19*)

7-508. Additional standards for fireworks retailers. Any site for a fireworks retailer must be located so that all parts of the structure and fireworks inventory on the site are no closer than one hundred feet (100') to any fuel source. The applicant is liable for all violations of this chapter by persons under his/her supervision. (as added by Ord. #09-4, Oct. 2009)

7-509. Unlawful sale to certain children and other persons; unlawful use of fireworks. It is unlawful to offer for sale or to sell any fireworks to children under the age of eighteen (18) years of age or to any intoxicated person. It is unlawful to explode or ignite fireworks within six hundred feet (600') of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within two hundred feet (200') of where fireworks are stored, sold, or offered for sale. It is unlawful to ignite or discharge any permissible articles of fireworks within

or throw them from a motor vehicle. It is unlawful to place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group of persons. It is unlawful to ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. It is unlawful to launch fireworks onto property of persons who have not given permission. It is unlawful to use fireworks at times, places, or in any manner that endangers other persons, or creates a nuisance insofar as other residences of the neighborhood are concerned. It is unlawful to ignite fireworks during a burning ban declared by either the State of Tennessee or the City of Milan Fire Department, except for public (and/or group) displays for which permits have been granted.

It is unlawful for any person less than eighteen (18) years of age to explode, ignite or otherwise use fireworks without being under the direct supervision of an adult. It is unlawful for any person to allow a child less than eighteen (18) years of age to explode, ignite or otherwise use fireworks without being under the direct supervision of an adult. Any person providing supervision of a child less than eighteen (18) years of age in the use of fireworks shall be responsible for compliance with this chapter. (as added by Ord. #09-4, Oct. 2009, and amended by Ord. #10-9, Sept. 2010, and Ord. #2020-15, Nov. 2020 *Ch8_01-11-22*)

7-510. Limited time period to use fireworks. It is unlawful to discharge or use fireworks except for the following time periods.

(1) June 27 through July 4 - The permissible hours are from 3:00 P.M. to 10:00 P.M., except for July 4 when permissible hours are from 10:00 A.M. to 11:00 P.M.

(2) December 26 through January 1 - The permissible hours are from 3:00 P.M. to 10:00 P.M., except for December 31 when permissible hours are from 10:00 A.M. to 12:30 A.M. January 1.

(3) Permissible hours for special display or consumer fireworks display permits for "special events," as defined in § 7-502(1)(e), are from 10:00 A.M. to 10:00 P.M. Sunday through Thursday, and 10:00 A.M. to 11:30 P.M. Friday through Saturday only for the dates listed on the permit obtained from the City of Milan.

(4) Within twenty-four (24) hours of a person's use of fireworks, such user shall clean up all debris resulting from such use regardless of the location of the debris; provided, however, fireworks users shall, prior to entering real property neither owned nor lawfully possessed by such user, request permission to enter such real property from the person or entity that has authority to grant such permission. Nothing herein shall be construed to allow criminal trespass to real property. (as added by Ord. #09-4, Oct. 2009, and replaced by Ord. #2020-15, Nov. 2020 *Ch8_01-11-22*)

7-511. Manufacture prohibited. It shall be unlawful for any person, firm, partnership or corporation to manufacture within the corporate limits of Milan, Tennessee pyrotechnics, commonly known as fireworks, of any kind or description. (as added by Ord. #09-4, Oct. 2009)

7-512. Exclusions. Nothing in this chapter prohibits: (1) The sale of any kind of fireworks that are to be shipped directly out of the corporate limits of the city in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

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

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

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

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

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

(7) Supervised displays of fireworks as provided for in this chapter. (as added by Ord. #09-4, Oct. 2009)

7-513. Violations and penalties. Violations of any provision of this chapter shall be subject to a penalty of up to fifty dollars (\$50.00) per violation pursuant to the provision of the Tennessee Code Annotated, § 68-104-114.

The Codes Director and/or Fire Marshal of the City of Milan is further authorized to seize any contraband and destroy fireworks which do not comply with the provisions defining allowable fireworks contained in this chapter pursuant to the provision of the Tennessee Code Annotated, § 68-104-115. (as added by Ord. #09-4, Oct. 2009)

CHAPTER 6

OPEN BURNING

SECTION

- 7-601. Purpose.
- 7-602. Definitions
- 7-603. Permit required, etc.
- 7-604. Permit application.
- 7-605. Authority to suspend permit/burning.
- 7-606. Compliance with chapter.
- 7-607. Exemptions.
- 7-608. Unauthorized burning prohibited.
- 7-609. Violation and penalty.

7-601. Purpose. The purpose of this chapter is to prevent fires that may be hazardous to life and property, eliminate potentially dangerous accumulations of combustible materials and to assist the city in eliminating unlawful, unnecessary and indiscriminate burning. (as added by Ord. #09-01, May 2009)

7-602. Definitions. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. The word "shall" is always mandatory and not merely directory.

(1) "Contractor" shall mean the primary contractor/builder or subcontractor for a particular construction site for which a building permit has been issued.

(2) "Developer" shall mean the individual or his/her designee that is developing parcel of land for commercial or residential use.

(3) "Fire extinguishing equipment" shall mean an approved ten (10) pound ABC type fire extinguisher, a garden type hose connected to a reliable water supply, or any other equipment approved in writing in advance by the fire chief.

(4) "Open burning" shall mean the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack, duct, or chimney. (as added by Ord. #09-01, May 2009)

7-603. Permit required, etc. (1) No open burning shall be permitted within the City of Milan without a permit, except as provided in § 7-606.

(2) Open burning may be conducted subject to the following limitations with a valid burning permit, issued by the City of Milan at no charge:

(a) To clear land of brush/wood grown on that land where the land is being maintained for the following purposes:

- (i) Establish private residences, consisting of one (1) or two (2) dwelling units;
- (ii) Establish church congregational properties;
- (iii) New site development projects;
- (iv) Agriculture development.

NOTE: Before clearing brush/wood for development the responsible party must notify the fire department to determine the proper site and method for burning.

(3) All such permits shall be available for inspection throughout the period of time the permit is issued and the open burning is in progress.

(4) All open burning shall be between the hours of 8:00 A.M. and 3:30 P.M. or as authorized by the fire department.

(5) All signs of open burning shall be non-existent in the air no later than 4:30 P.M.

NOTE: Materials may not be burned in piles exceeding one hundred forty-four (144) cubic feet, except as designated on new site development projects. (as added by Ord. #09-01, May 2009)

7-604. Permit application. To obtain a permit required by this chapter, the applicant shall obtain a burn permit from the fire department no more than twenty-four (24) hours before the fire, which shall include:

- (1) The type of materials to be burned.
- (2) The location of the fire.
- (3) The individual(s) designated as being responsible for controlling the fire.
- (4) A signed statement by the applicant stating that he or she will follow all outdoor burning regulations contained in this code, that no outdoor burning shall be left unattended or permitted later than one (1) hour after sunset, and that protection against fire spread will be provided in a manner approved by the fire chief or his designee. (as added by Ord. #09-01, May 2009)

7-605. Authority to suspend permit/burning. (1) Regardless of any established permit period, the fire chief or his designee shall have the authority to forbid, restrict or suspend any and all burning or cancel any permit upon determining burning to cause a nuisance, weather or other conditions are unfavorable, or hazardous for outdoor fires.

(2) The fire chief or his designee in granting or denying such permission, shall take into consideration the atmospheric conditions, the site of the proposed burning in relation to proximate structures, the availability of fire suppression equipment at the site, the attendance of a competent person during the burning, and any other local conditions that might make such a fire hazardous. (as added by Ord. #09-01, May 2009)

7-606. Compliance with chapter. (1) The granting of an open burning permit shall in no way relieve the person responsible for such burning from the consequences or the damages, injuries, or claims resulting from such burning, or of the responsibility of obtaining any other permit from any other agency.

(2) A garden hose and water supply or other fire extinguishing equipment must be on hand and a competent person in constant attendance until all fire has been extinguished.

(3) Shall comply with the rules of Tennessee Department of Environment and Conservation Bureau of Environment Division of Air Pollution Control Chapter 1200-3-4 Open Burning.

(4) Developer and/or contractors. Open burning cannot be located closer than fifty feet (50') to any structure. Burning may not be located closer than one hundred feet (100') to any wooded land.

(5) A bon fire may be allowed, with written approval by the fire chief, provided the size does not exceed five feet (5') in height and six feet (6') in base. The bon fire must be supervised by a person twenty-one (21) years or older with approved fire extinguishing equipment. The fire department must be notified at least three (3) days in advance during regular business hours prior to the ignition of a bon fire. If an organization wants to build a bon fire larger than the specifications stated above, a fire apparatus with city firefighters must be arranged to be on site during the ceremony.

(6) Piles exceeding one hundred forty-four (144) cubic feet shall meet additional special requirements as determined by the fire chief taking into consideration the atmospheric conditions, the site of the proposed burning in relation to proximate structures, the availability of fire suppression equipment at the site, the attendance of a competent person during the burning, and any other local conditions that might make such a fire hazardous. (as added by Ord. #09-01, May 2009)

7-607. Exemptions. Burning may be conducted under the following conditions without a burn permit provided that no complete burn ban is issued by the fire department. The responsible party conducting the burning must constantly attend the burning material, and must have an expectable level of fire extinguishing equipment present and knowledgeable in the use of such

(1) Fire used for cooking of food or for ceremonial or recreational purposes, including barbecues, campfires, and outdoor fireplaces or fire pits.

(2) Fires set for the training and instruction of public or private firefighting personnel.

(3) Fires set by or the direction of responsible fire control agencies for the prevention, elimination, or reduction of a fire hazard.

(4) Heating on construction project sites with a valid building permit may be conducted between October 1 and April 15 provided the burning is in a suitable metal fifty-five (55) gallon container with an ash screen in place on top of the container as a spark arrester.

(a) Only untreated wood may be used. This is not to be construed to allow burning of painted or chemically treated wood or garbage, for comfort heating.

(b) Fire extinguishing equipment must be located within five feet (5') of the container.

(c) Fires shall be extinguished when no worker is in attendance.

(d) Fire containers shall be located a minimum of twenty-five feet (25') from any structure or tree. (as added by Ord. #09-01, May 2009)

7-608. Unauthorized burning prohibited. It shall be unlawful to burn any of the following:

- (1) Tires and rubber products;
- (2) Vinyl siding and shingles;
- (3) Asphalt shingles and other asphalt roofing materials and demolition debris;
- (4) Houses and mobile homes;
- (5) Plywood, oriented strand board and treated wood, including railroad ties;
- (6) Asbestos - containing materials;
- (7) Aerosol cans and food cans;
- (8) Copper wire and electrical wires;
- (9) Plastics and other synthetic materials;
- (10) Paper products, cardboard and newspapers;
- (11) Household trash;
- (12) Leaves, evergreen needles, and grasses;
- (13) Branches and trees not grown on site. (as added by Ord. #09-01, May 2009)

7-609. Violation and penalty. The violation of any provision of this chapter is punishable under the general penalty provision of this municipal code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #09-01, May 2009)

CHAPTER 7

FIRE HYDRANTS

SECTION

- 7-701. Public hydrants.
- 7-702. Private hydrants.
- 7-703. Hydrant specifications.
- 7-704. Obstruction of fire hydrants.
- 7-705. Marking of fire hydrants.
- 7-706. Class C fire hydrants.
- 7-707. Adequate fire flows.
- 7-708. Fire hydrant inspection, testing, maintenance, and repair.
- 7-709. Tampering with fire hydrants.

7-701. Public hydrants. Public hydrants are those owned by the City of Milan.

(1) All public fire hydrants shall be installed at street intersections where possible. Public hydrant spacing shall be measured along the route that would be accessible to the fire department to lay fire hose from the hydrant to the building.

(2) In areas zoned for one- or two-family residential use, public hydrants shall be spaced no more than five hundred feet (500') apart. If dead-end streets, or driveways, singly or in combination, are over three hundred feet (300') long, additional public hydrants shall be installed so that the public hydrant spacing is not over five hundred feet (500'). The distance shall be measured along the route that would be accessible to the fire department to lay fire hose from the hydrant to the building.

(3) In areas zoned for other than one- or two-family residential use, public fire hydrants shall be spaced an average of three hundred feet (300') apart. If dead-end streets or driveways, singly or in combination, are over one hundred fifty feet (150') long, additional public hydrants shall be installed so that the public hydrant spacing is not over four hundred feet (400'). The distance shall be measured along the route that would be accessible to the fire department to lay fire hose from the hydrant to the building. (as added by Ord. #2020-05, July 2020 *Ch8_01-11-22*)

7-702. Private hydrants. (1) A private hydrant is privately owned but is subject to the use of the city for inspection and testing at reasonable times, and for fire suppression at any time.

(2) All buildings except one- or two-family dwellings that are located so that a portion is more than two hundred feet (200') from a street, as measured along the route that would be accessible to the fire department to lay fire hose from the hydrant to the building, shall have private fire hydrants located at the

building. One- or two-family dwellings with a fire-flow calculation area greater than four thousand eight hundred (4,800) square feet may require a private hydrant as determined by the fire marshal.

(3) Maximum distance from the nearest fire hydrant to the most remote point of any building shall be no more than four hundred feet (400') as measured along the route that would be accessible to the fire department to lay fire hose from the hydrant to the building. There shall never be fewer than three (3) fire hydrants for any building larger than five thousand (5,000) square feet in the first-floor area, including covered parking and storage. When the required fire flow is three thousand (3,000) gallons per minute or greater, the fire hydrants shall be served by a looped main around the building, or complex of buildings.

(4) Fire hydrants shall be spaced every three hundred feet (300') around the perimeter line, no closer than fifty feet (50') to the building. All hydrants shall be placed in locations accessible to fire department vehicles adjacent to fire apparatus access roads. For maximum fire protection benefit, the fire marshal shall determine the location of fire hydrants depending on utility, topography and building location. (as added by Ord. #2020-05, July 2020 *Ch8_01-11-22*)

7-703. Hydrant specifications. (1) All public and private fire hydrants shall have two (2), two-and-one-half-inch (2-1/2") hose outlets and one (1) four-and-one-half-inch (4-1/2") pumper outlet, a minimum five-and-one-fourth-inch (5-1/4") barrel, and a minimum six-inch (6") branch connection. All outlet ports shall have national standard thread. Fire hydrants shall meet the American Water Works Association (AWWA) Standard No. C-502 and current city standards.

(2) Fire hydrants and appurtenances shall be installed in accordance with generally accepted engineering practices and city standards, and to the approval of the city engineer, who shall also approve the selection and use of all pipe fittings and valves. There shall be an appropriate foot valve installed between the service main and the hydrant to permit the repair and replacement of the fire hydrant without disruption of water service. The foot valve shall be installed to city standards. The location of all such valves installed shall be properly and accurately marked on as-built plans or drawings with generally acceptable engineering detail, two (2) copies of which shall be furnished to the Milan Public Utilities. Valves shall be furnished with a standard valve box.

(3) Hydrants shall stand plumb, be set to the established street grade, with the lowest outlet of the hydrant at least eighteen inches (18") above the adjacent finished grade, with at least thirty-six inches (36") of clear area around the hydrant in all directions for clearance of a hydrant wrench on both outlets and on the control valve. The pumper port shall face the street, as determined by the fire marshal.

(4) Where reasonably necessary to protect a hydrant from damage, the fire marshal may require fire hydrants to be protected by two (2) or more posts, eight inches (8") in diameter by five feet (5') long, made either of reinforced concrete or steel.

(5) If there are presently existing fire hydrants which do not conform to these requirements, they shall be replaced with conforming hydrants upon redevelopment or the timetable established by the city's comprehensive plan. Non-repairable fire hydrants shall be replaced with fire hydrants meeting these same specifications.

(6) All installations are to be approved by the city engineer. Following the installation of fire hydrants, all pipes, valves, and hydrants shall be pressure tested, purified, flushed, and sampled to meet the requirements of the American Water Works Association Standard No. 502.

(7) A fire hydrant may not be painted except by an authorized agent or employee of the fire department or the city.

(8) The installation of flush type hydrants (hydrants entirely below grade) is prohibited. (as added by Ord. #2020-05, July 2020 *Ch8_01-11-22*)

7-704. Obstruction of fire hydrants. (1) It shall be unlawful for any person to obstruct or hinder the approach of the fire department to any fire hydrants. In order to assure access to fire hydrants, the following requirements must be met.

(2) No person shall plant any vegetation, erect any structure, place any obstruction, or perform any action which results in the visual obstruction of a fire hydrant for a distance of fifty feet (50') along the immediate route of approach. The owner-occupant of any area in which a hydrant is located shall be responsible for removing weed, shrub, and tree growth from around the hydrant for a distance of not less than five feet (5'). The purpose of this section is to maintain clear approach and visual area around the hydrant.

(3) Unobstructed access to fire hydrants shall be maintained at all times. To provide immediate access for the fire department, a three-foot (3') minimum (thirty-six inch (36")) clear space shall be maintained around the circumference of all fire hydrants.

(4) No person or entity shall construct any fence or other structure which would encroach within the thirty-six inch (36") minimum clearance for fire hydrants, and no fence shall be constructed between the fire hydrant and the roadway. (as added by Ord. #2020-05, July 2020 *Ch8_01-11-22*)

7-705. Marking of fire hydrants. (1) To provide an immediate visual indication of available hydrant flow, all public and private fire hydrants shall be color coded to NFPA Standard 291, Recommended Practice for Fire Flow Testing and Marking of Hydrants, 2019 edition.

(2) The hydrant barrel shall be yellow in color.

(3) The top (bonnet) of the hydrant shall be painted in the appropriate color to indicate hydrant capacity, as indicated in the table below.

<u>Color</u>	<u>Class</u>	<u>Available Flow at 20 psi Residual Pressure</u>
Blue	AA	1,500 gpm or more
Green	A	1,000 to 1,499 gpm
Orange	B	500 to 999 gpm
Red	C	Less than 500 gpm

(as added by Ord. #2020-05, July 2020 *Ch8_01-11-22*)

7-706. Class C fire hydrants. Fire hydrants that currently exist on water mains that will not flow at least five hundred (500) gallons per minute at twenty (20) pounds per square inch (psi) residual pressure are designated Class C hydrants and shall not be used by the fire department for connection to the pumper connection of fire apparatus. Such fire hydrants shall have their tops painted red in color, to indicate to firefighters that this hydrant will not flow the minimum adequate gallons per minute necessary for firefighting operations. The fire department may use these hydrants to fill water tanks using the available pressure in the fire hydrant. (as added by Ord. #2020-05, July 2020 *Ch8_01-11-22*)

7-707. Adequate fire flows. (1) All future water mains and fire hydrants shall be installed in such a manner to provide adequate fire flows for the given occupancy at risk, the needed fire flow to be determined by the fire marshal.

(2) All water mains shall be at least six inches (6") in diameter, and no fire hydrant may be installed on a water main that is less than six inches (6") in diameter. Larger mains shall be installed where necessary to ensure that a minimum of five hundred (500) gallons per minute (gpm) at twenty (20) pounds per square inch (psi) residual pressure is available at all fire hydrants.

(3) Fire hydrants in one- or two-family developments, where buildings have at least eleven feet (11') of separation, shall flow a minimum of one thousand (1,000) gpm at twenty (20) psi residual pressure.

(4) Fire hydrants in one- or two-family developments, where buildings have less than eleven feet (11') of separation, shall flow a minimum of one thousand five hundred (1,500) gpm at twenty (20) psi residual pressure.

(5) Larger mains shall be installed where necessary to ensure adequate fire flows for the occupancy at risk. (as added by Ord. #2020-05, July 2020 *Ch8_01-11-22*)

7-708. Fire hydrant inspection, testing, maintenance, and repair.

(1) All public fire hydrants shall be inspected and flushed annually, in accordance with American Water Works Association (AWWA) Manual M-17 and National Fire Protection Association (NFPA) Standard 291, to verify operation, address repairs, and verify reliability.

(2) Owners of all private fire hydrants shall ensure that their fire hydrants are inspected and flushed annually, in accordance with American Water Works Association (AWWA) Manual M-17 and National Fire Protection Association (NFPA) Standard 291, to verify operation, address repairs, and verify reliability, and shall provide documentation of the annual inspection and flushing of their hydrants to the fire marshal.

(3) All portions of the water distribution system shall be flow tested at least once every five (5) years, using the two (2) hydrant flow test method, in accordance with American Water Works Association (AWWA) Manual M-17.

(4) All public fire hydrants that are found to require repair or maintenance shall be referred to the Milan Public Utilities. The Milan Public Utilities shall schedule the repair and shall notify the fire department that the fire hydrant is out of service. The hydrant should be repaired and placed back in service within fourteen (14) calendar days of the first notification of the need for repair or maintenance.

(5) All private fire hydrants that are found to require repair or maintenance shall be referred to the hydrant's owner. The hydrant's owner shall contract with a licensed fire hydrant repair service for the repair or maintenance, and shall notify the fire department that the fire hydrant is out of service. The hydrant should be repaired and placed back in service within fourteen (14) calendar days of the first notification of the need for repair or maintenance.

(6) All public and private fire hydrants that are out of service shall be so marked by painting the tops black, or covering the hydrant with a black shroud, or by other means that makes it obvious the fire hydrant is out of service. Such markings and indications shall be removed when the hydrant is placed in service, and the fire department shall be notified that the fire hydrant is back in service. (as added by Ord. #2020-05, July 2020 **Ch8_01-11-22**)

7-709. Tampering with fire hydrants. No person shall obstruct, remove, tamper with, or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of the fire code, except for the purpose of extinguishing fire, training, testing purposes, recharging, or making necessary repairs, or when permitted by the fire chief. (as added by Ord. #2020-05, July 2020 **Ch8_01-11-22**)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. RETAIL PACKAGE LIQUOR STORES.
2. BEER.

CHAPTER 1

RETAIL PACKAGE LIQUOR STORES

SECTION

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Application for certificate.
- 8-103. Applicant to agree to comply with laws.
- 8-104. Applicant to appear before board of mayor and aldermen; duty to give information.
- 8-105. Action on application.
- 8-106. Applicants for certificate who have criminal record.
- 8-107. Where establishments may be located.
- 8-108. Retail stores to be on ground floor; entrances.
- 8-109. Consumption on premises.
- 8-110. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 8-111. Inspection fee.
- 8-112. Distance requirements.
- 8-113. Violations.

8-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages, as that term is defined in Tennessee Code Annotated, title 57, chapter 3, within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57, chapter 3. (Ord. #70, Aug. 1993, as replaced by Ord. #08-04, Nov. 2008, as replaced by Ord. #2016-1, Feb. 2016 *Ch7_6-20-19*)

8-102. Application for certificate. Before any certificate, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by Tennessee

¹State law reference

Tennessee Code Annotated, title 57.

Code Annotated, § 57-3-213 shall be signed by the mayor, or by any aldermen, an application in writing shall be filed with the city recorder. If an application is for a business entity other than a sole proprietorship, the application shall be accompanied by an application completed by each owner of the retail package store business, including each and every partner, shareholder, member or any other person or entity, however described, who has any ownership interest in the retail package store business on a form to be provided by the city, giving the following information:

(1) Name, date of birth, address, telephone number and Social Security number of the applicant.

(2) The name of the business entity that owns or will own the retail package store business and the names, dates of birth, addresses, telephone numbers and Social Security numbers of each person who has or will have an ownership interest in the business entity.

(3) Whether the applicant or applicants who are to be in actual charge of the business have been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, whether the executive officers or those in control have been convicted of a felony within a ten (10) year period immediately preceding the date of the application.

(4) The location of the proposed retail package liquor store.

(5) The name, address and telephone number of the owner(s) of the proposed location for the retail package store.

(6) The ownership interest of each applicant in the retail package store business.

(7) A true, complete and accurate Tennessee Bureau of Investigation criminal history report.

The information in the application shall be verified by the oath of the applicant. (as added by Ord. #2016-1, Feb. 2016 *Ch7_6-20-19*)

8-103. Applicant to agree to comply with laws. The applicant for a certificate shall agree in writing to comply with all applicable state and federal laws, the Milan Municipal Code and the rules and regulations of the alcoholic beverage commission. (as added by Ord. #2016-1, Feb. 2016 *Ch7_6-20-19*)

8-104. Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board. (as added by Ord. #2016-1, Feb. 2016 *Ch7_6-20-19*)

8-105. Action on application. Every application for a certificate shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of mayor and aldermen within thirty (30) days of the date each application was filed. The

board of mayor and aldermen may issue a certificate to any applicant, which shall be signed by the mayor or by a majority of those members of the board of mayor and aldermen present and voting. (as added by Ord. #2016-1, Feb. 2016 *Ch7_6-20-19*)

8-106. Applicants for certificate who have criminal record. No certificate shall be issued to an applicant or applicants who are to be in actual charge of the business if such applicant(s) have been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, no certificate shall be issued if the executive officers or those in control have been convicted of a felony within a ten (10) year period immediately preceding the date of the application. (as added by Ord. #2016-1, Feb. 2016 *Ch7_6-20-19*)

8-107. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose. (as added by Ord. #2016-1, Feb. 2016 *Ch7_6-20-19*)

8-108. Retail stores to be on ground floor; entrances. No retail package liquor store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.

In addition, all retail package liquor stores shall be a permanent type of construction. No retail package liquor stores shall be located in a manufactured or other moveable or prefabricated type building. All retail package liquor stores shall have night lights surrounding the premises and shall be equipped with a functioning burglar alarm system on the inside of the premises. The minimum square footage of the interior of the liquor store shall be one thousand (1,000) square feet. Full, free and unobstructed vision of the interior of any such store shall be afforded to and from the public or private thoroughfare adjacent to the real property upon which any such store is situated by way of large windows in the front, and to the extent practicable, to the sides of the building containing the liquor store; provided, however, where, due to distance or the nature of the real property upon which any such store is situated, such vision is not feasible, full, free and unobstructed vision shall nevertheless be provided to and from the parking lot of any such store. Regardless, no fence, landscaping or other impediments are allowed, other than vehicles temporarily parked on the premises on which the liquor store is located by customers or deliverymen for the purpose of conducting business therein, that obstruct the full and free vision of the interior of any such store to and from any public or private thoroughfare

adjacent to the real property upon which any such store is situated. All liquor stores shall be subject to applicable zoning, land use, building and life safety regulations adopted by the city, unless specifically provided otherwise. (as added by Ord. #2016-1, Feb. 2016 *Ch7_6-20-19*), and amended by Ord. #2016-8, June 2016 *Ch7_6-20-19*)

8-109. Consumption on premises. No alcoholic beverages shall be sold for consumption, or shall be consumed, on the premises of a retail package liquor store. (as added by Ord. #2016-1, Feb. 2016 *Ch7_6-20-19*)

8-110. Radios, amusement devices and seating facilities prohibited in retail package liquor stores. No radios, televisions, pinball machines, slot machines or other devices which tend to cause persons to congregate shall be permitted in any retail . package liquor store. No seating facilities shall be provided for persons other than employees. (as added by Ord. #2016-1, Feb. 2016 *Ch7_6-20-19*)

8-111. Inspection fee. The City of Milan hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retail package liquor stores located within the corporate limits of the city. (as added by Ord. #2016-1, Feb. 2016 *Ch7_6-20-19*)

8-112. Distance requirements. Except retail package liquor stores located in the B-4 zone (Commercial Services District) pursuant to the City of Milan Zoning Ordinance, no retail package liquor store shall be allowed within three hundred feet (300') of any hospital, school, church, day care facility, or other place of public gathering in existence on the date of the applicant's application for a certificate. The distance described herein shall be measured in a straight line from building to building, or in the case of a public playground or public park, from the closest point in the nearest property line of the public playground or public park. (as added by Ord. #2016-1, Feb. 2016 *Ch7_6-20-19*), and replaced by Ord. #2017-8, Oct. 2017 *Ch7_6-20-19*)

8-113. Violations. 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. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. However, nothing herein shall be construed to prevent the city from exercising any criminal or civil remedies that it may have with respect to violations of this chapter. (as added by Ord. #2016-1, Feb. 2016 *Ch7_6-20-19*)

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. Powers and duties of the beer board.
- 8-205. "Beer" defined.
- 8-206. Permits required for engaging in beer business.
- 8-207. Privilege tax.
- 8-208. Limitation on number of permits.
- 8-209. Interference with public health, safety, and morals prohibited.
- 8-210. Issuance of permits to person convicted of certain crimes prohibited.
- 8-211. Prohibited conduct or activities by beer permit holders.
- 8-212. Suspension and revocation of beer permits.
- 8-213. Unobstructed view into licensed premises required.
- 8-214. Limitation upon issuance of beer permits.
- 8-215. Permit to be displayed.
- 8-216. Beer permit not transferable.
- 8-217. Contents of application for permit; qualifications of applicant; application fee.
- 8-218. Hours for furnishing and/or consumption on permitted premises.
- 8-219. Violation of chapter as grounds for civil penalties, suspension or revocation of permit.
- 8-220. Prospective application of ordinance.

8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board. (Ord. #70, Aug. 1993, as replaced by Ord. #2000-01, May 2000, and Ord. #08-04, Nov. 2008)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The beer board shall conduct business during the regular meetings of the mayor and board of aldermen. When there is business that requires a special meeting, a special meeting may be called by the chairman provided he gives a reasonable notice to each member. The board may adjourn

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).

a meeting at any time, to another time and place. Any applicant seeking a beer permit must be present in-person, by phone, or by audio-visual means when the board considers the application. (Ord. #70, Aug. 1993, as replaced by Ord. #2000-01, May 2000, and Ord. #08-04, Nov. 2008, and amended by Ord. #2023-14, Oct. 2023 *Ch9_10-10-23*)

8-203. Record of beer board proceedings to be kept. The city recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be public and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. #70, Aug. 1993, as replaced by Ord. #2000-01, May 2000, and Ord. #08-04, Nov. 2008)

8-204. 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 this city in accordance with the provisions of this chapter. (Ord. #70, Aug. 1993, as replaced by Ord. #2000-01, May 2000, and Ord. #08-04, Nov. 2008)

8-205. "Beer" defined. The term "beer" as used in this chapter shall have the same meaning as "beer" is defined in Tennessee Code Annotated, § 57-5-101. (Ord. #70, Aug. 1993, as replaced by Ord. #2000-01, May 2000, Ord. #08-04, Nov. 2008, and Ord. #2017-2, March 2017 *Ch7_6-20-19*)

8-206. 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 beer board shall prescribe and/or furnish, shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Milan. Each applicant must be a person of good moral character and must certify that he or she will become familiar with the provisions of this chapter. All new permit holders must meet with the city recorder for a review of the beer ordinance prior to issuance of the permit. Each new permit holder will receive a copy of this ordinance. Once this permit is issued, the permit holder must activate the permit by opening the business within ninety (90) days of approval of the permit. Failure to open within the ninety (90) days will result in revocation of the permit. If an individual other than the named applicant is to operate the business, such operator must meet the same qualification as the applicant. Applicant must be duly registered for sales tax purposes. (Ord. #70, Aug. 1993, as replaced by Ord. #2000-01, May 2000, and Ord. #08-04, Nov. 2008)

8-207. Privilege tax. Effective January 1, 1994 there is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distributing, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Milan, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #70, Aug. 1993, as replaced by Ord. #2000-01, May 2000, and Ord. #08-04, Nov. 2008)

8-208. Limitation on number of permits. The beer board may issue permits of the four (4) following classes, or an unclassified permit if the applicant's request for a permit does not fit one (1) of the following classes:

(1) On-premise consumption permits are limited to twelve (12) permits. Current holders of permits are grandfathered and will continue to be so until the total number is reduced to twelve (12) through attrition.

(2) Bona fide restaurant beer permits shall be determined as follows:

(a) Sixty percent (60%) of the gross income of such restaurants is derived from the sale of food.

(b) The seating capacity is at least seventy-five (75).

(c) The restaurant has commercial cooking equipment.

(d) Each location shall keep and maintain the premises in a safe, clean and sanitary condition as required for a rating of class "B" or better as established by the Tennessee State Department of Conservation, Division of Hotels and Restaurant Inspections.

(e) Restaurant has a minimum of one thousand fifty (1,050) square feet of dining area.

(f) The front or main door shall face the adjacent street or public way.

(3) Convenience store permit applicants shall meet the following requirements:

(a) Sell an array of products.

(b) Located in a permitted zone.

(c) Open a minimum of six (6) days per week.

(d) Be equipped with a functioning burglar alarm system as well as monitored security cameras.

(e) Maintain proper lighting with night lights surrounding the premises.

(f) Parking area shall be paved and maintained in a clean, sanitary manner.

(g) The front or main door shall face the adjacent street or private thoroughfare.

(h) Full, free and unobstructed view of the interior of any such store shall be afforded to and from the public or private thoroughfare adjacent to the real property upon which any such store is situated by way of large windows in the front, and to the extent practicable, to the sides of the building.

(4) Grocery stores, drug stores and super stores may qualify for a beer permit based on the following definition.

(a) A grocery store must be located in a zone authorized by the zoning and planning board and must generally sell food items destined for home preparation and consumption, as well as health and beauty aids and household items. Beer sales cannot exceed forty percent (40%) of gross income.

(b) A drug store must be located in a zone authorized by the zoning and planning board and must sell prescription drugs, medicine, health and beauty aids and household items. Beer sales cannot exceed forty percent (40%) of gross income.

(c) A super store must be located in a zone authorized by the zoning and planning board and must sell a combination of the items sold by grocery and drug stores, plus electronics, clothing, or appliances. Beer sales cannot exceed forty percent (40%) of gross income. (Ord. #70, Aug. 1993, as amended by Ord. #1998-06, Aug. 1998, replaced by Ord. #2000-01, May 2000, and Ord. #08-04, Nov. 2008, and amended by Ord. #2022-15, Jan. 2023 *Ch9_10-10-23*, and Ord. #2023-14, Oct. 2023 *Ch9_10-10-23*)

8-209. 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, child care facilities, or other places of public gathering, or would otherwise interfere with public health, safety or morals. Except permits issued to individuals to operate businesses located in the B-4 zone (Commercial Services District) pursuant to the City of Milan Zoning Ordinance, the city shall not issue a permit authorizing on-premises consumption of beer within eight hundred feet (800'), or a permit authorizing the sale of beer for off-premises consumption within three hundred feet (300'), of any hospital, school, church, or day care facility. The distances described herein shall be measured in a straight line from building to building, or in the case of a public playground or public park, from the closest point in the nearest property line of the public playground or public park. (Ord. #70, Aug. 1993, as replaced by Ord. #2000-01, May 2000, Ord. #08-04, Nov. 2008, and Ord. #2017-8, Oct. 2017 *Ch7_6-20-19*, and amended by Ord. #2023-14, Oct. 2023 *Ch9_10-10-23*)

8-210. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been

convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years immediately preceding the application for a beer permit. (Ord. #70, Aug. 1993, as replaced by Ord. #2000-01, May 2000, and Ord. #08-04, Nov. 2008)

8-211. Prohibited conduct or activities by beer permit holders.

It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude during such employment or within ten (10) years immediately preceding such employment;

(2) Make or allow any sale of beer between the hours of 3:00 A.M. and 8:00 A.M. Monday through Saturday or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday;

(3) Allow any loud, unusual, or obnoxious noises to emanate from the premises;

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

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

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

(7) Allow drunken persons to loiter about the premises;

(8) Serve, sell, or allow the consumption on the premises of any alcoholic beverage with an alcoholic content of more than six percent (6%) by weight;

(9) Fail to provide and maintain sanitary and functioning restroom(s) to adequately accommodate customers;

(10) Fail to have the place of business, by holders of on-premise consumption permits, cleared of all customers by 3:00 A.M.;

(11) Allow assaults, fighting, damaging of property and breaches of the peace occurring on or in the premises where beer is sold;

(12) Allow any person to consume beer while in a motor vehicle parked on the premises;

(13) Sale of beer without registering with the State of Tennessee for sales tax;

(14) Have the area of business activity inaccessible by locked front doors of any establishment, public or private, during the hours of selling and or serving beer as established in this chapter;

(15) Not allow law enforcement to enter the establishment at any time during, before and after the hours of selling and or serving beer as established in this chapter;

(16) Allow any person to sell or serve beer while consuming beer, alcohol and/or indulge in the consumption of illegal drugs and/or be intoxicated;

(17) For any permit holder whose business is solely for the on premise consumption of beer, to employ any person under the age of eighteen (18) on the premises in any capacity whatsoever; or

(18) Place advertisements or signs on the premises that substantially restrict the view from the outside into the premises. (Ord. #70, Aug. 1993, modified, as replaced by Ord. #2000-01, May 2000, and Ord. #08-04, Nov. 2008, and amended by Ord. #2017-2, March 2017 *Ch7_6-20-19*, and Ord. #2023-14, Oct. 2023 *Ch9_10-10-23*)

8-212. Suspension and revocation of beer permits. The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in the application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until the board holds a public hearing after reasonable notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board. (Ord. #70, Aug. 1993, as replaced by Ord. #2000-01, May 2000, and Ord. #08-04, Nov. 2008)

8-213. Unobstructed view into licensed premises required. It shall be unlawful for any person to, in any way, manner, form, or attempt, obstruct the vision through any windows. No public building, within the corporate limits of the City of Milan, which sells beer or other related alcoholic beverages may stack merchandise higher than thirty-six inches (36") from the floor in front of windows. (Ord. #70, Aug. 1993, as replaced by Ord. #2000-01, May 2000, and Ord. #08-04, Nov. 2008)

8-214. Limitation upon issuance of beer permits. No permit shall be issued by the beer permit board:

- (1) In violation of any provision of the State of Tennessee law;
- (2) In violation of the Zoning Ordinance of the City of Milan;
- (3) If the person named in the application is not present when the board considers the application;
- (4) For any location that does not offer sanitary and functioning restroom(s) to adequately accommodate customers. (Ord. #70, Aug. 1993, as replaced by Ord. #2000-01, May 2000, and Ord. #08-04, Nov. 2008, and amended by Ord. #2023-14, Oct. 2023 *Ch9_10-10-23*)

8-215. Permit to be displayed. The permit required by this section shall be posted in a conspicuous place on the premises of the permit holder at all times. (as added by Ord. #2000-01, May 2000, and replaced by Ord. #08-04, Nov. 2008)

8-216. Beer permit not transferable. Any permit issued under the provisions of this chapter is not transferable, as to location or person, or as to successor, by purchase or otherwise, of the business for which the permit was issued, and in any such case a new permit is required in the manner provided herein. (as added by Ord. #2000-01, May 2000, and replaced by Ord. #08-04, Nov. 2008)

8-217. Contents of application for permit; qualifications of applicant; application fee. Prior to any beer permit issuance by the beer board, the applicant shall file with the beer board a sworn petition in writing on forms prescribed and furnished by the City of Milan and shall establish the following:

(1) The location of the premises at which the business shall be located;

(2) The owner or owners of the premises;

(3) The applicant will not engage in the sale of such beverages except at the place or places for which the beer board has issued a permit or permits to such applicant;

(4) That any permit for off-premise consumption, including convenience store permit and grocery, drug and super store permits, shall not allow on-premise consumption.

(5) That no sale will be made to minors, and that the applicant will not permit minors or disorderly or disreputable persons heretofore connected with the violation of liquor or beer laws or ordinances to loiter around the place of business.

(6) The beer board may require the applicant to secure a certificate or a statement from the Tennessee State Department of Conservation, Division of Hotels and Restaurant Inspections, for the location that is the subject of the application.

(7) The applicant will not allow any gambling or gambling devices on permitted premises, except activities or devices that are legal in Tennessee.

(8) The applicant will not allow any beer with alcoholic content greater than such weight, volume or alcoholic content as is allowed by the laws of the State of Tennessee, to be consumed on his/her premises.

(9) That neither the applicant nor any persons employed or to be employed in such distribution or sale of such beverage have been convicted of any violation of the law against prohibition, sale, manufacture or transportation of intoxicating liquor, or of any crime involving moral turpitude within ten (10) years immediately preceding the application.

(10) That the applicant will conduct the business in person for himself or, if he is acting as agent, the applicant shall state the person, firm, corporation, syndicate, association or joint stock companies for whom and only for whom, the applicant intends to act.

(11) That no beer shall be sold from coin-operated dispensers.

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

(13) Each permit shall be issued to an individual to conduct the business at the location set forth and specified in said application. (as added by Ord. #2000-01, May 2000, replaced by Ord. #08-04, Nov. 2008, and amended and renumbered by Ord. #2023-14, Oct. 2023 ***Ch9_10-10-23***)

8-218. Hours for furnishing and/or consumption on permitted premises. It shall be unlawful for any person, business entity, or any agent thereof, to sell or distribute any of the beverages regulated hereunder within the City of Milan between the hours of 3:00 A.M. and 8:00 A.M. Monday through Saturday or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday. (as added by Ord. #2000-01, May 2000, replaced by Ord. #08-04, Nov. 2008, and Ord. #2017-2, March 2017 ***Ch7_6-20-19***, and renumbered by Ord. #2023-14, Oct. 2023 ***Ch9_10-10-23***)

8-219. Violation of chapter as grounds for civil penalties, suspension or revocation of permit. Each day's violation of each or any provision of this chapter by any permit holder or such permit holder's employee(s) or agent(s), or each sale made in violation of any provision of this chapter shall constitute a separate misdemeanor for which the permit issued hereunder may be suspended or revoked at the discretion of the beer board. Any offense other than selling to a person under twenty-one (21) years of age may carry a civil penalty of up to one thousand dollars (\$1,000.00) as an alternative to revocation or suspension of the beer permit.

The first offense of selling and/or serving beer to a person under twenty-one (21) years of age will result in a civil penalty up to one thousand dollars (\$1,000.00). The second offense of selling and/or serving beer to a person under twenty-one (21) years of age will carry a suspension of the beer permit up to thirty (30) days and a civil penalty not to exceed one thousand dollars (\$1,000.00). The third offense of selling and/or serving beer to a person under twenty-one (21) years of age will result in permanent revocation of the beer permit. Any combination of offenses totaling three (3) or more will result in revocation of the beer permit.

The permit holder shall have seven (7) days within which to pay a civil penalty before the revocation or suspension of the beer permit is imposed.

When a permit is revoked, no new permit shall be issued for the sale of beer at the same location for one (1) year after the revocation. The beer board may, at its discretion, determine that a permit may be issued prior to the

expiration of the one (1) year revocation period, if the individual applying for the permit is not the original holder or any family member of such individual. (as added by Ord. #2000-01, May 2000, replaced by Ord. #08-04, Nov. 2008, and renumbered by Ord. #2023-14, Oct. 2023 ***Ch9_10-10-23***)

8-220. Prospective application of ordinance. Any holder of a valid permit issued prior to the effective date of the ordinance comprising this chapter shall not be affected by the provisions of this chapter, but such permit holder shall continue to be regulated by the ordinances in existence prior to the effective date of the ordinance comprising this chapter. Any permit for a business operated by a holder of a valid permit prior to the effective date of the ordinance comprising this chapter shall be revoked if such business is discontinued or abandoned for a period of one hundred eighty (180) consecutive days. Any such permit holder who seeks to sell or distribute beer shall make application for a new permit and shall be subject to the provisions of this chapter. (as added by Ord. #2000-01, May 2000, replaced by Ord. #08-04, Nov. 2008, and renumbered by Ord. #2023-14, Oct. 2023 ***Ch9_10-10-23***)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS.
6. AUCTIONS.
7. PERSONAL PROPERTY SALES IN RESIDENTIAL ZONING DISTRICTS.
8. SEXUALLY ORIENTED BUSINESSES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 9-101. Sunday business.
- 9-102. "Going out of business" sales.
- 9-103. Non-resident contractors to be bonded.
- 9-104. Closing time for businesses having pinball machines.

9-101. Sunday business. All businesses, except for the sale of beer as governed by § 8-213(2), shall be permitted to remain open on Sunday. (Ord. #1995-01, March 1995)

9-102. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1973 Code, § 5-102)

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

9-103. Non-resident contractors to be bonded. Every person, partnership, or corporation engaged in the business of making improvements to real property who has not been a resident of the City of Milan, Tennessee, for at least one (1) year, before making any such improvement to real property within said city, shall file with the city evidence of a reliable corporate bond, or cash bond, in at least the amount of the proposed improvements, guaranteeing the faithful performance by such person, partnership, or corporation, of such improvement. (1973 Code, § 5-103)

9-104. Closing time for businesses having pinball machines. All places of business having or operating pinball machines therein are required to close at 12:00 Midnight and are to remain closed until 5:00 A.M. and are prohibited from making sales from midnight until 5:00 A.M. and such places are allowed fifteen minutes past midnight in which to clear their places of customers. (1973 Code, § 5-104)

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
- 9-202. Definition of peddler/transient vendor.
- 9-203. Exemptions.
- 9-204. Application for permit.
- 9-205. Issuance or refusal of permit.
- 9-206. Location.
- 9-207. Length of time.
- 9-208. Number of permits per year.
- 9-209. Appeal.
- 9-210. Bond.
- 9-211. Loud noises and speaking devices.
- 9-212. Use of streets.
- 9-213. Exhibition of permit.
- 9-214. Policemen to enforce.
- 9-215. Revocation or suspension of permit.
- 9-216. Re-application.
- 9-217. [Repealed.]
- 9-218. Door to door solicitors.
- 9-219. Mobile food vendors.

9-201. Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1973 Code, § 5-201)

9-202. Definition. The terms "peddler," "canvasser," "solicitor," and "transient merchant," includes any person or business entity engaged in the temporary business of selling and/or delivering goods, wares or merchandise within the City of Milan, subject to the exemptions set forth in this chapter. (as added by Ord. #03-1, Jan. 2003, and amended by Ord. #2014-2, Nov. 2014)

9-203. Exemptions. The terms of this chapter shall not be applicable, unless a specific section indicates otherwise, to persons selling at wholesale to dealers, sellers of farm products, bona fide merchants who merely deliver goods

¹Municipal code reference
Privilege taxes: title 5.

in the regular course of business, bona fide charitable, religious, patriotic or philanthropic organizations, or to mobile food vendors as defined in § 9-219. (1973 Code, § 5-202, as replaced by Ord. #03-1, Jan. 2003, and Ord. #2014-2, Nov. 2014)

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

- (1) State of Tennessee sales tax number.
- (2) Name and physical description of applicant and permanent address of the applicant.
- (3) The local address from which proposed sales will be made.
- (4) A brief description of the nature of the business and the goods to be sold.
- (5) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.
- (6) The length of time for which the right to do business is desired.
- (7) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.
- (8) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to properly evaluate the applicant's moral reputation and business responsibility.
- (9) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.
- (10) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.
- (11) At the time of filing the application, a fee established by the mayor and board of aldermen shall be paid to the city to cover the cost of investigating the facts stated therein. (1973 Code, § 5-203, as replaced by Ord. #03-1, Jan. 2003)

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

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

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-210. The city recorder shall keep a permanent record of all permits issued. (1973 Code, § 5-204, as renumbered by Ord. #03-1, Jan. 2003)

9-206. Location. The permit will be good for only one location. (as added by Ord. #03-1, Jan. 2003)

9-207. Length of time. Each permit issued is for a period of 14 days. (as added by Ord. #03-1, Jan. 2003)

9-208. Number of permits per year. No more than 2 permits per year shall be issued to a permit holder (as defined in § 9-202 of this chapter). (as added by Ord. #03-1, Jan. 2003)

9-209. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1973 Code, § 5-205, as renumbered by Ord. #03-1, Jan. 2003)

9-210. Bond. Every permittee shall file with the city recorder a surety bond running to the city in the amount of one thousand dollars (\$1,000). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this city and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the city doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the

court in which the suit is commenced, be relieved without costs of all further liability. (1973 Code, § 5-206, as renumbered by Ord. #03-1, Jan. 2003)

9-211. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1973 Code, § 5-207, as renumbered by Ord. #03-1, Jan. 2003)

9-212. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1973 Code, § 5-208, as renumbered by Ord. #03-1, Jan. 2003)

9-213. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1973 Code, § 5-209, as renumbered by Ord. #03-1, Jan. 2003)

9-214. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1973 Code, § 5-210, as renumbered by Ord. #03-1, Jan. 2003)

9-215. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.
- (b) Any violation of this chapter.
- (c) Conviction of any crime or misdemeanor.
- (d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(e) Any sales at a location other than location named in application will result in loss of permit.

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1973 Code, § 5-211, as replaced by Ord. #03-1, Jan. 2003)

9-216. Re-application. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1973 Code, § 5-212, as renumbered by Ord. #03-1, Jan. 2003)

9-217. [Repealed.] (1973 Code, § 5-213, as replaced by Ord. #03-1, Jan. 2003, and repealed by Ord. #08-05, Dec. 2008)

9-218. Door to door solicitors. (1) "Door-to-door solicitor" means any person, firm or corporation, either a resident or nonresident of the City of Milan, who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing same for sale.

(2) In order to maintain its citizens' privacy and quiet use of their properties, to prevent or reduce crimes associated with scams or swindles, and to promote consumer protection, the provisions of this chapter, except § 9-206, shall apply to door-to-door solicitors and, furthermore, door-to-door solicitors shall be allowed to operate within the City of Milan only between the hours of 12:00 P.M. (noon) and 5:00 P.M., with the exception of ice cream trucks which will be extended to 8:00 P.M.

(3) The provisions of this section, except § 9-218 (4), shall not apply to any established church or school operated exclusively for charitable, education, or religious purposes if door-to-door solicitations are conducted exclusively by the members thereof voluntarily and without remuneration for such solicitations. Charitable solicitations shall be governed by § 9-301, et seq. of the Milan Municipal Code.

(4) It is a violation of this section to enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "No Solicitations," or similar language, is located.

(5) In addition to any other action the City of Milan may take against a person, firm, corporation or other entity in violation of this section, such violation shall be punishable according to the general penalty provision of the

Milan Municipal Code. (as added by Ord. #02-7, Dec. 2002, and replaced by Ord. #08-05, Dec. 2008)

9-219. Mobile food vendors. (1) This section shall apply to mobile food vendors.

(2) It is unlawful for any person, firm, corporation, or association to engage in or carry on the business of mobile food vending in the City of Milan without first having secured a permit as required by this section.

(3) "Mobile food vendor" means a person or entity engaged in conveying, with or without charge, food or beverages from a movable cart, trailer or vehicle of any sort other than a mobile home or travel trailer, as those terms are defined by the City of Milan Zoning Ordinance; except, however, the provisions of this section shall not apply to caterers, defined as persons or entities engaged in the business of transporting food and beverages by vehicle to residential or business establishments pursuant to a prearranged schedule.

(4) "Commercial zone" means any property which is zoned B-1, B-2, B-3, M-1, R-P or any commercial zone subsequently adopted by the City of Milan.

(5) Applications for a mobile food vendor permit shall be filed at the office of the city recorder on forms to be developed by the city recorder. Such application shall contain the information required below along with the current fee. All applications for permits shall be investigated by such departments or officers of the City of Milan as the city recorder or mayor may direct.

(6) The applicant must satisfy the following requirements before a mobile food vendor permit can be issued:

(a) The applicant shall submit the name and home and business address of the applicant, and the name and home and business address of the owner, if other than the applicant, of the mobile food vendor business and any vehicles, trailers or other equipment to be used in such operation.

(b) The applicant must submit a copy of written, notarized permission from the owner of the property on which the mobile food vendor will operate.

(c) The applicant shall submit an accurate photograph of any vehicles, trailers or other equipment to be used in its operation.

(d) For applicants proposing to locate on property owned by or in which the City of Milan has an easement or other legal interest, the applicant shall present a copy of the declarations page of a general liability insurance policy in the amount of at least one million dollars (\$1,000,000.00) naming the City of Milan as an additional insured for all time periods in which the mobile food vendor will operate on any such property.

(e) The applicant must specify the time period such applicant seeks to operate as a mobile food vendor in the City of Milan.

(f) Except as may be specifically set forth in this section, the applicant must have all other licenses or permits required by the city, county or state including, but not limited to, business licenses and a Tennessee sales tax certificate of registration.

(7) Each application for a mobile food vendor permit shall be accompanied by a nonrefundable application fee of fifty dollars (\$50.00).

(8) All mobile food vendor permits issued by the City of Milan, unless otherwise specified herein, shall be effective for one year unless revoked.

(9) Mobile food vendors seeking to operate on a limited-time basis shall be bound by the terms of this section, except such vendors, upon approval of their application by the city, shall be entitled to no more than two (2) permits of fourteen (14) days each per year and such vendors shall not be required to have a City of Milan business license. The application fee of fifty dollars (\$50.00) shall apply to each permit. Any permit issued pursuant to this section shall be valid for fourteen (14) days from the date of issuance unless the city recorder indicates a different time period, not to exceed fourteen (14) days, on the permit.

(10) The city shall review applications for mobile food vendor permits and shall notify applicants that their application has either been granted or denied. The city recorder shall issue a mobile food vendor permit to mobile food vendors whose applications have been granted. Applications may be denied by the city for reasons including, but not limited to, failure to comply with the application requirements of this section. Applicants who have been denied a mobile food vendor application may request a review of the city's decision by the board of mayor and aldermen.

(11) All persons or entities with a mobile food vendor permit issued by the City of Milan shall be subject to the following regulations:

(a) A mobile food vendor is limited to one (1) location unless specifically authorized by the City of Milan.

(b) A mobile food vendor shall only operate within a commercial zone.

(c) A mobile food vendor shall only operate on property with the express, written consent of the property owner. If the property owner notifies the City of Milan or the mobile food vendor that such consent is revoked, the permit shall be immediately revoked for such location and the mobile food vendor shall be allowed to make an application for a new location.

(d) Mobile food vendors shall display, in a prominent and visible manner, the mobile food vendor permit issued by the City of Milan.

(e) The size of a mobile food vendor's operation including vehicles, trailers or other equipment shall not exceed three hundred twenty (320) square feet.

(f) The location of the mobile food vendor shall be clean and orderly at all times, and the mobile food vendor shall provide a refuse container for use by the public.

(g) Mobile food vendors shall not use drive-through windows to conduct business, unless such drive-through window service generates no more than ten percent (10%) of the mobile food vendor's average monthly gross revenue.

(h) Mobile food vendors shall not hinder the use of any mailbox, fire hydrant or traffic control device.

(i) Mobile food vendors shall not make loud noises or use mechanical audio equipment.

(j) Mobile food vendors shall comply with all applicable state and local health laws and regulations regarding the preparation, handling and presentation of food.

(k) Mobile food vendors are prohibited from operating from mobile homes or travel trailers, as those terms are defined by the City of Milan Zoning Ordinance.

(12) The City of Milan shall have the power to revoke or deny any permit or permit application for reasons including, but not limited to, the following:

(a) Cancellation or revocation of the mobile food vendor's state or local license or permit.

(b) Failure of the mobile food vendor to comply with the Milan Municipal Code. (as added by Ord. #2014-2, Nov. 2014)

CHAPTER 3

CHARITABLE SOLICITORS¹

SECTION

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

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1973 Code, § 5-301)

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

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

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

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

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1973 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 mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1973 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1973 Code, § 5-304)

¹Municipal code reference

Door to door ordinance: § 9-218.

CHAPTER 4

TAXICABS¹

SECTION

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

9-401. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the board of mayor and aldermen and has a currently effective privilege license. (1973 Code, § 5-401)

9-402. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the board of mayor and aldermen; and make a recommendation to either grant or refuse a franchise to the applicant. The board shall thereupon hold a public hearing at which time witnesses for and

¹Municipal code reference
Privilege taxes: title 5.

against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the board of mayor and aldermen shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1973 Code, § 5-402)

9-403. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the city. (1973 Code, § 5-403)

9-404. Revocation or suspension of franchise. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1973 Code, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the city unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1973 Code, § 5-405)

9-406. Cleanliness of vehicles. All taxicabs operated in the city shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1973 Code, § 5-406)

9-407. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the city who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1973 Code, § 5-409)

9-408. Revocation or suspension of driver's permit. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1973 Code, § 5-410)

9-409. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the city for the purpose of obtaining patronage for their cabs. (1973 Code, § 5-411)

9-410. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the city for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1973 Code, § 5-412)

9-411. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1973 Code, § 5-413)

9-412. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1973 Code, § 5-414)

9-413. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the city in any way. (1973 Code, § 5-415)

9-414. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1973 Code, § 5-416)

CHAPTER 5**POOL ROOMS**¹**SECTION**

9-501. Hours of operation regulated.

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

9-501. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 12:00 Midnight and 6:00 A.M. on other days. (1973 Code, § 5-501)

9-502. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1973 Code, § 5-502)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 6

AUCTIONS

SECTION

- 9-601. Auctions regulated; exceptions.
- 9-602. Permit required; application; bond.
- 9-603. Issuance or denial of permit.
- 9-604. Miscellaneous prohibitions.
- 9-605. Permits not transferable; may be revoked.
- 9-606. Permit to be displayed.

9-601. Auctions regulated; exceptions. All public or private auctions of personal property within the City of Milan shall be controlled and governed by the provisions of this chapter except auctions held pursuant to the order of courts of record, or sales of sheriffs, executors or administrators of decedents' estates, bona fide sales by trustees under recorded mortgages or deeds of trust, or by lien holders acting in accordance with law. (1973 Code, § 5-601)

9-602. Permit required; application; bond. No person, firm, or corporation, directly or indirectly, through agents or otherwise, shall conduct any auction subject to this chapter without first having obtained a permit for conducting same, through a regularly licensed auctioneer, as hereinafter provided.

(1) Any person desiring to conduct such an auction sale shall first file a written application for permit therefor with the board of mayor and aldermen of Milan, Tennessee, stating:

(a) The name, address, and occupation or business of the person, firm, or corporation desiring to conduct such auction.

(b) The name, address, and occupation or business of the person, firm, or corporation for whom the auction is to be conducted, if other than the applicant.

(c) The name and address of the owner of the merchandise, stock of goods, or other personal property to be offered at such auction, with a true, complete, itemized, and sworn inventory of such property, showing the cost price thereof and the source of the title thereto, said cost information to be treated as confidential by the board of mayor and aldermen, except in prosecutions for violations of this chapter.

(d) The place and hour of such auction, with an estimate of the duration thereof.

(e) A statement showing dates, places, and nature of merchandise sold at all other auction sales by the applicant and/or the owner of the property to be auctioned, within two (2) years next preceding the date of the application.

(f) Whether or not additional merchandise, other than the inventory filed, or what is called "fill in" stock, will be offered at such auction and if so, the general nature and previous ownership of such additional or "fill in" stock, with a true, complete, and itemized sworn inventory thereof, showing the cost price and source of title thereof, said cost information to be treated as confidential by the board of mayor and aldermen except in prosecutions for violations of his chapter.

(g) A copy of proposed advertisements to be made of such auction and/or an agreement by the applicant that the quality or history of the merchandise will not be misrepresented in any advertisement thereof.

(h) Whether or not any other application for permit by him or the owner of the goods has been refused and/or whether any such permit has been revoked or challenged after its issuance.

(i) The name and address of the auctioneer or auctioneers who will call or cry the auction.

(j) The necessity or reasons for the conducting of such auction.

(2) The applicant shall file with said application a bond in the penal sum of \$1,000, with good and solvent sureties, in the following form, to wit;

STATE OF TENNESSEE
COUNTY OF GIBSON

KNOW ALL MEN BY THESE PRESENTS: That we _____, Principal, and _____ and _____, Sureties, are held and firmly bound unto the City of Milan, Tennessee, for its own use in the penal sum of One Thousand Dollars, for payment whereof well and truly to be made, we bind ourselves respectively and our heirs and administrators.

The condition of this bond is such, that whereas the above named _____ has obligated himself to the City of Milan, Tennessee, in the penal sum of \$1,000.00 now, therefore, if the said _____ does well and truly conform to the provisions of said ordinance then this obligation shall be void otherwise to remain it full force and effect for the period of one year from the date of this bond.

It is expressly understood that this bond is payable to and recoverable by the City of Milan, Tennessee, for its own use and for the use of all persons suffering loss or damage by reason of the violation of said ordinance by the above named principal, and to compel the principal herein to perform the obligation herein undertaken.

In witness whereof, we have hereunto set our hands, this ____ day of _____, 19__.

Principal

Surety

Surety

Approved:

City Attorney

(1973 Code, § 5-602)

9-603. Issuance or denial of permit. Upon the filing of such application and bond, the board of mayor and aldermen shall consider the application together with oral testimony of the applicant, the owner, and/or other witnesses, if required by said board. If, in the opinion of the board of mayor and aldermen, after due consideration, it appears that the auction is for legitimate business purposes and not as a fraud upon the public; that the auction is to be conducted at a suitable and proper place, considering the traffic on the street, the congestion of the sidewalk, the usual place of business of the applicant, and businesses surrounding the proposed place of auction; the proposed advertisements of the action fairly represent the merchandise to the public; the applicant, owner, and/or auctioneer is of good character and has not violated heretofore this chapter or similar ordinances; and, if the sureties on the bond are solvent, the board of mayor and aldermen shall issue a permit for such a period as shall be shown to be necessary to dispose of the property described, but in no event for a longer period than two (2) weeks from the date of issuance. If a longer time shall become necessary, additional or extension permits therefor shall be obtained in the same manner as the original permit, as hereinbefore provided. The board of mayor and aldermen shall accept or reject any application within ten (10) days of the date of filing. (1973 Code, § 5-603)

9-604. Miscellaneous prohibitions. It is hereby declared to be unlawful for any auctioneer, person, firm, or corporation conducting or holding

a public or private auction of personal property within the City of Milan, Tennessee, to:

(1) Mislead the public as to the reason or purpose for holding said auction by any type or method of advertisement or inducement.

(2) Offer for sale or sell at any auction held for the purpose of "going out of business" any merchandise other than merchandise in stock at the time of commencement of said auction.

(3) Have an agent or other person, designated by whatever title or in whatever manner, to sit in the audience and support the bids by making bids for the sole purpose of maintaining a high bid level and not as a bona fide offer to buy.

(4) Have or permit the auctioneer announce in any manner a fictitious bid or a bid that is not made bona fide by a prospective purchaser.

(5) Mislead the public by false, fraudulent, or negligent advertising concerning the quality of goods sold.

(6) Hold said auction at any time other than between the hours of 9:00 A.M. and 4:00 P.M. or between 8:00 P.M. and 11:00 P.M.

(7) Sell any merchandise which does not have firmly attached thereto the name of the manufacturer, or its standard brand name if distributed by other than the actual manufacturer.

(8) Sell any merchandise from which the manufacturer's or distributor's name, or standard brand name has been removed.

(9) Make any false representations or statements as to the ownership, of, or the character or circumstances of the owner, or pretended owner, of such property for the purpose of inducing the sale thereof.

(10) Falsely advertise, state, or represent that such goods, wares, and merchandise are in whole, or in part, a bankrupt or insolvent stock, or damaged goods saved from fire, or to make any false statement, representation, or advertisement as to the purchase, history, or character of such goods, wares, or merchandise.

(11) Substitute any article in lieu of that described and offered to and purchased by the bidder.

(12) Represent and/or sell as new or unused merchandise any second hand or used merchandise.

(13) Alter, transfer, lend, sell, or rent out any permit issued under this chapter or to use any permit not issued to the person so using.

(14) Conduct an auction sale covered by this chapter without a permit or after the expiration of the permit issued or after the revocation or suspension of such permit.

(15) Sell or offer for sale at such auction any article not specifically listed in the inventory filed with the board of mayor and aldermen. (1973 Code, § 5-604)

9-605. Permits not transferable; may be revoked. No permit issued hereunder shall be assignable or transferable. Any permit so issued may be suspended, recalled, or revoked by the board of mayor and aldermen for any violation of the terms of this chapter. (1973 Code, § 5-605)

9-606. Permit to be displayed. The permit issued hereunder shall be conspicuously displayed where such auction sale is conducted. (1973 Code, § 5-606)

CHAPTER 7

PERSONAL PROPERTY SALES IN RESIDENTIAL ZONING DISTRICTS

SECTION

- 9-701. Intent and purpose.
- 9-702. Permit required.
- 9-703. Term of permit.
- 9-704. Application for permit.
- 9-705. Exceptions.
- 9-706. Conditions to be met.
- 9-707. Signs.

9-701. Intent and purpose. It is the intent of these regulations to prohibit infringement of any businesses in any established residential areas and in so doing to regulate the term and frequency of a personal property sale (such as garage sales, porch sales, yard sales, and other similar types of sales) so as not to disturb or disrupt the residential environment of the area. It is not the intent of this chapter to seek control of sales by individuals selling a few of their household or personal items. (1973 Code, § 5-701)

9-702. Permit required. It shall be unlawful for any person desirous of holding a personal property sale (such as, but not limited to, garage sale, porch sale, or yard sale), of clothing or any personal property items which are owned by the residents of the premises to hold such sale without first obtaining a permit therefor from the Police Department of the City of Milan. (1973 Code, § 5-702)

9-703. Term of permit. Any such permit issued shall be for a term not exceeding three consecutive calendar days.

Permits shall be limited to four per calendar year, per residential dwelling. (1973 Code, § 5-703)

9-704. Application for permit. Application for a permit shall be made to the Milan Police Department upon forms furnished by the city.

The form shall contain at least the following information:

- (1) Full name and address of applicant.
- (2) The location at which the proposed sale is to be held.
- (3) The date or dates upon which the personal property sale shall be held.
- (4) The date or dates of any other personal property sales within the current calendar year.

(5) An affirmative statement that the property to be sold was owned by the applicant as his own personal property and was neither acquired or consigned for the purpose of resale. (1973 Code, § 5-704)

9-705. Exceptions. The provisions of this chapter shall not apply to or affect the following persons or sales:

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

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

(3) Any bona fide charitable, eleemosynary, educational, cultural, or government institution or organization, provided, however, that the burden of establishing the exemption shall be on the organization, or institution claiming such exemption. (1973 Code, § 5-705)

9-706. Conditions to be met. The permit shall be posted on the premises in a conspicuous place so as to be seen by the public and city inspectors. (1973 Code, § 5-706)

9-707. Signs. No signs shall be posted anywhere in the City of Milan advertising such sales, except that the property owner may install, on the residential lot on which the sale is held, one sign not larger than 2' x 3' advertising such sale. Such sign shall not be erected more than three days prior to the date of the sale and shall be removed at the end of the last day upon which the sale is held. (1973 Code, § 5-707)

CHAPTER 8

SEXUALLY ORIENTED BUSINESSES

SECTION

- 9-801. Definitions.
- 9-802. Purpose and findings.
- 9-803. Classification.
- 9-804. License required.
- 9-805. Issuance of license.
- 9-806. Fees--sexually oriented business license and employee license.
- 9-807. Inspection.
- 9-808. Expiration of license.
- 9-809. Suspension.
- 9-810. Revocation.
- 9-811. Transfer of license.
- 9-812. Location of sexually oriented business.
- 9-813. Additional regulations for adult motels.
- 9-814. Regulations pertaining to exhibition of sexually explicit films, videos or live entertainment in viewing rooms.
- 9-815. Additional regulations for escort agencies.
- 9-816. Additional regulations for nude model studios.
- 9-817. Additional regulations concerning public nudity.
- 9-818. Prohibition against children in a sexually oriented business.
- 9-819. Hours of operation.
- 9-820. Exemptions.
- 9-821. Penalties and injunction.
- 9-822. General provisions.

9-801. Definitions. (1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated, slug operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors video or laser disc players, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

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

- (a) Books, magazines, periodicals or other printed matters, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representations which are

characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or

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

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is the offering for sale or rental for any form of consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

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

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

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

(4) "Adult motel" means a hotel, motel 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, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or

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

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

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

(6) "Adult theater" means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or seminude or live performances which are characterized by the exposure of "specified anatomical area" or by "specified sexual activities."

(7) "Employees" means a 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 and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of its premises or equipment on the premises, or for the delivery of goods to the premises.

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

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

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

(a) The opening or commencement of any sexually oriented business as a new business.

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.

(c) The additions of any sexually oriented business to any other existing sexually oriented business; or

(d) The relocation of any sexually oriented business.

(11) "Licensee" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee; a person in whose name a license has been issued authorizing employment in a sexually oriented business.

(12) "Nude model studio" means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed; sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form or consideration. Nude model studio shall not include a proprietary school licensed by the State of Tennessee or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:

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

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

(c) Where no more than one (1) nude or semi-nude model is on the premises at any one time.

(13) "Nudity" or "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 of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

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

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

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

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

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

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

(18) "Specified anatomical areas" means but is not limited to the following:

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

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

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

(a) Prostitution or promotion of prostitution, dissemination of obscenity, sale, distribution or display of harmful material to a minor, sexual performance by a child, possession or distribution of child pornography, public lewdness, indecent exposure, indecency with a child, engaging in organized criminal activity, sexual assault, molestation of a child, gambling, or distribution of a controlled substance, or any similar offenses to those described above under the criminal or penal code of other states or counties.

(b) For which:

(i) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the

conviction; whichever is later date, if the conviction is of a misdemeanor offense;

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

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

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

(20) "Specified sexual activities" means any of the following:

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

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

(c) Excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

(21) "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%) as the floor areas exist on the date the ordinance comprising this chapter takes effect.

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

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

(b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; 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. (as added by Ord. #03-03, Sept. 2003)

9-802. Purpose and findings. (1) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect on imposing limitation or restriction on the content of any communicative materials, including sexually oriented materials.

Similarly, it is not the intent nor effect of this chapter to restrict or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(2) Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.* 475 U.S. 41 (1986), *Young v. American Mini Theaters*, 427 U.S. 50 (1976) and *Barnes v. Glen Theater, Inc.*, 501 U.S. 560 (1991), and on studies in other communities including, but not limited to Phoenix, Arizona; Tuscan, Arizona; Minneapolis, Minnesota; St. Paul, Minnesota; Houston, Texas; Dallas, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Newport News, Virginia; Los Angeles, California; Whitier, California; Austin, Texas; Oklahoma City, Oklahoma; Oklahoma City, Oklahoma IT; Cleveland, Ohio; Beaumont, Texas; and Seattle, Washington; the board finds:

(a) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities.

(b) Certain employees of sexually oriented businesses defined in this ordinance as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

(c) Sexual acts, including masturbation and oral and anal sex occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

(d) Offering and providing such space encourages such activities, which creates unhealthy conditions.

(e) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

(f) Communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.

(g) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States - 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985, and 253,448 through December 31, 1992.

(h) As of July 31, 1998, there were 7,689 reported cases of AIDS and 3,904 deaths resulting from AIDS in the State of Tennessee. There were 2,522 reported cases of AIDS in Shelby County as of July 31, 1998.

(i) Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in the State of Tennessee with 9,363 reported cases of HIV. There were 3,651 reported cases of HIV in Shelby County as of July 31, 1998.

(j) The number of cases of syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990. There were 934 reported cases of gonorrhea in Shelby County in 1997. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990. There were 4,876 reported cases of gonorrhea in Shelby County in 1997.

(k) The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(l) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(m) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and in part, because of the unregulated nature of the activities and the failure of the owners and operators of the facilities to self-regulate those activities and maintain those facilities.

(n) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where person view "adult" oriented films.

(o) The findings noted in subsections number (a) through (n) raise substantial government concerns.

(p) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(q) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the city. It is appropriate to require reasonable assurance that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(r) Removal of doors in booths of sexually oriented businesses and requiring sufficient lighting on premises of sexually oriented

businesses with booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

(s) Requiring licenses of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

(t) The disclosure of certain information by those persons ultimately responsible for the day to day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

(u) It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this chapter is designed to prevent or who are likely to be witnesses to such activity.

(v) The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this chapter.

(w) The general welfare, health and safety of the citizens of the city will be promoted by the enactment of this chapter. (as added by Ord. #03-03, Sept. 2003)

9-803. Classification. Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstore, adult novelty stores, or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers. (as added by Ord. #03-03, Sept. 2003)

9-804. License required. (1) It is unlawful:

(a) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the city pursuant to this chapter.

(b) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not

licensed as a sexually oriented business employee by the city pursuant to this chapter.

(c) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.

(2) An application for a license must be made on a form provided by the city.

(3) All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established in this chapter.

(4) If a person who wishes to operate a sexually oriented business is an individual, the person must 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 individual who has twenty percent (20%) or greater interest in the business must sign the applicant for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

(5) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(a) If the applicant is:

(i) An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is eighteen (18) years of age;

(ii) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(iii) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(b) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state:

(i) The sexually oriented business' fictitious name; and

(ii) Submit the required registration documents.

(c) Whether the applicant, or a person residing with the applicant has been convicted of a specified criminal activity as defined in this ordinance, and if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

(d) Whether the applicant or a person residing with the applicant has had a previous license under this chapter or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked; including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked; as well as the date of the denial, suspension or revocation; and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer; director or principal stockholder of corporation that is licensed under this chapter whose license has previously been denied; suspended or revoked; including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(e) Whether the applicant or a person residing with the applicant holds any other license under this chapter or other similar sexually oriented business ordinance from another city or county and if so, the names and locations of such other licensed businesses.

(f) The single classification of license for which the applicant is filing.

(g) The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone number(s); if any; which location shall be a permissible location under the terms of this chapter.

(h) The applicant's mailing address and residential address.

(i) A recent photograph of the applicant(s).

(j) The applicant's driver's license number; social security number; and/or his/her state or federally issued tax identification number.

(k) A sketch or diagram showing the configuration of the premises; including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared; but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6").

(l) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and structures containing any existing sexually oriented businesses within five hundred feet (500') of the property to be certified; the property lines of an established religious institution; synagogue, school; or public park, or recreation area within five hundred feet (500') of the property to be certified. For purposes of this section; a use shall be considered existing or established if it is in existence at the time an application is submitted.

(m) If an applicant wishes to operate a sexually oriented business other than an adult motel, which shall exhibit on the premises; in a viewing room or booth of less than one hundred (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment, which depict specified anatomical areas; then the applicant shall comply with the application requirement set forth in § 9-813.

(n) Before any applicant may be issued a sexually oriented business employee license the applicant shall submit on a form to be provided by the city the following information:

- (i) The applicant's name or any other name (including "stage" names) or aliases used by the individual;
- (ii) Age, date and place of birth;
- (iii) Height, weight, hair and eye color;
- (iv) Present residence address and telephone number;
- (v) Present business address and telephone number;
- (vi) Date, issuing state and number of driver's permit or other identification card information;
- (vii) Social Security number; and
- (viii) Proof that the individual is at least eighteen (18) years of age.

(o) Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:

- (i) A color photograph of the applicant, clearly showing the applicant's face; and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.
- (ii) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application; including whether such applicant in this or any other county, city, state or country, has ever had a license, permit or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation or suspension, the name of the issuing or denying jurisdiction, and description in full of the reason for the denial, revocation or suspension shall be attached to the application.
- (iii) A statement whether the applicant has been convicted of a specified criminal activity as defined in this chapter and if so, the specified criminal activity involved, the date, place and jurisdiction of each. (as added by Ord. #03-03, Sept. 2003)

9-805. Issuance of license. (1) Upon the filing of said application for a sexually oriented business employee license, the applicant shall then be

referred to the appropriate city departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the city shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

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

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

(c) The applicant has been convicted of a "specified criminal activity;"

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

(e) The applicant has had a sexually oriented business employee license revoked within two (2) years of the date of the current application. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in § 9-810.

(2) A sexually oriented business license and sexually oriented business employee license granted pursuant to this ordinance shall be subject to annual renewal upon the written application of the applicant and a finding by the city that the applicant has not been convicted of any specified criminal activity as defined in this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 9-806.

(3) Within thirty (30) days after receipt of a completed sexually oriented business application the city shall approve or deny the issuance of a license to an applicant. The city shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(a) An applicant is under eighteen (18) years of age.

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

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

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

license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

(e) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this chapter.

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

(g) The license fee required by this chapter has not been paid.

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

(4) The license, if granted shall state on its face the name of the person or persons to whom it is granted; the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to § 9-803. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(5) The health department; fire department and the building official shall complete their certification that the premises is in compliance within twenty (20) days of receipt of the application by the city.

(6) A sexually oriented business license shall be issued for only one (1) classification as found in § 9-803. (as added by Ord. #03-03, Sept. 2003)

9-806. Fees--sexually oriented business license and employee

license. (1) Sexually oriented business license. (a) Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by an application fee of five hundred (\$500.00) dollars. In addition to the renewal fee, a late penalty of fifty (\$50.00) dollars shall be assessed against the applicant who files for a renewal less than thirty (30) days before the license expires. The application fee is non-refundable.

(b) In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the city an annual license fee of two hundred fifty dollars (\$250.00) within thirty (30) days of license issuance or renewal. Failure to pay the annual license fee within thirty (30) days of issuance or renewal shall result in the immediate revocation of license by the city.

(c) Every application for a sexually oriented business employer license (whether for a new license or for a renewal of an existing license) shall be accompanied by a two hundred fifty dollar (\$250.00) application, investigation and license fee, a late penalty of one hundred (\$100.00) shall be assessed against the applicant who files for renewal less than thirty (30) days before the license expires.

(d) All license applications and fees shall be submitted to the City Recorder of the City of Milan.

(2) Sexually-oriented business employees license. (a) Every application for a sexually oriented business employee license (whether for a new or for renewal of an existing license) shall be accompanied by an application fee of one hundred dollars (\$100.00). In addition to the renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for a renewal less than thirty (30) days before the license expires. Application fees are nonrefundable.

(b) In addition to the application and investigation fee required above, every sexually oriented business employee that is granted a license (new or renewal) shall pay to the city an annual license fee of one hundred dollars (\$100.00) within thirty (30) days of license issuance or renewal. Failure to pay the annual license fee shall within thirty (30) days of license issuance or renewal shall result in the immediate revocation of license by the city.

(c) All license applications and fees shall be submitted to the City Recorder of the City of Milan. (as added by Ord. #03-03, Sept. 2003)

9-807. Inspection. (1) An applicant or licensee shall permit representatives of the police department, health department, fire department, development department or other city departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(2) A person who operates a sexually oriented business or his agent or employee commits a violation of this chapter if he refuses such lawful inspection of the premises at any time it is open for business. (as added by Ord. #03-03, Sept. 2003)

9-808. Expiration of license. (1) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 9-804. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

(2) When the city denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If, subsequent to the denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final. (as added by Ord. #03-03, Sept. 2003)

9-809. Suspension. (1) The city may suspend a sexually oriented business license for a period not to exceed thirty (30) days if it is determined that a licensee or employee of a licensee has:

(a) Violated or is not in compliance with any section of this chapter; or

(b) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter, provided, however; the provisions above relating to suspension shall not preclude revocation of a license if grounds as set out in § 9-810 below exist. (as added by Ord. #03-03, Sept. 2003)

9-810. Revocation. (1) The city may revoke a sexually oriented business license if a cause of suspension in § 9-809 occurs and the license has been suspended within the preceding twelve (12) months.

(2) The city may revoke a sexually oriented business license if it determines that:

(a) A licensee gave false or misleading information in the material submitted during the application process;

(b) A licensee has knowingly allowed possession, use or sale of controlled substances on the premises;

(c) A licensee has knowingly allowed prostitution on the premises;

(d) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(e) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises;

(f) A licensee is delinquent in payment to the city, county or state for any taxes or fees past due.

(3) The city may revoke a sexually oriented business employee license if it determines that:

(a) A licensee gave false or misleading information in the material submitted during the application process;

(b) A licensee possessed, used or sold controlled substances on the premises;

(c) A licensee committed prostitution on the premises;

(d) A licensee operated within a sexually oriented business without proper license; or

(e) A licensee has participated in any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act in or on the licensed premises.

(4) When the city revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has

been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

(5) After denial of an application or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court. (as added by Ord. #03-03, Sept. 2003)

9-811. Transfer of license. A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (as added by Ord. #03-03, Sept. 2003)

9-812. Location of sexually oriented business. (1) A person commits a violation of this chapter if that person operates or causes to be operated a sexually oriented business in any zoning district other than B-3 Commercial District, as defined and described in Chapter VI, section 11-603 of the Zoning Ordinance of Milan, Tennessee.

(2) A person commits an offense if the person operates or causes to be operated a sexually oriented business within five hundred feet (500') 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, kindergarten, elementary schools, private 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 shown on the official Milan Zoning Map;

(d) An occupied residential "dwelling;"

(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, wildemess areas, or other similar public land within the city which is under the control, operation or management of the city park and recreational authorities;

(f) The property line of a lot devoted to use as a "residence;" or

(g) An entertainment business which is oriented primarily towards children or family entertainment.

(3) A person commits an offense if the person operates or causes to be operated a sexually oriented business within one hundred feet (100') of any government building or public assembly.

(4) A person commits a violation of this chapter if that person causes or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually oriented business within five hundred feet (500') of another sexually oriented business.

(5) A person commits a violation of this chapter if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure or portion thereof, or the increase of floor area of any sexually oriented business.

(6) For the purpose of subsection (2) of this section, measurement shall be made in a straight line, without regard to the 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 the premises of a use listed in subsection (2). 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.

(7) For purposes of subsections (3) and (4) of this section, the distance between any two (2) 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.

(8) Any sexually oriented business lawfully operating on the date the ordinance comprising this chapter is approved by the mayor and board of aldermen that is in violation of subsections (1) through (7) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within five hundred feet (500') 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 non-conforming.

(9) A sexually oriented business lawfully in operation as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of a sexually oriented business license, of a use listed in subsection (2) of this section within five hundred feet (500') of the sexually oriented business. (as added by Ord. #03-03, Sept. 2003)

9-813. Additional regulations for adult motels. (1) Evidence that a sleeping room in a hotel, motel or a similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less

than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as the term is defined in this chapter.

(2) A person commits a misdemeanor if as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented license, he rents or sub-rents a sleeping room to a person, and within ten (10) hours from the time the room is rented, he rents or sub-rents the same sleeping room again.

(3) For purposes of subsection (2) of this section, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration. (as added by Ord. #03-03, Sept. 2003)

9-814. Regulations pertaining to exhibition of sexually explicit films, videos or live entertainment in viewing rooms. (1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted; if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprints shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (6"). The 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) The application shall be sworn to be true and correct by the applicant.

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

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

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated; then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area on the premises to manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It shall be the duty of the licensee to ensure that the view area specified in subsection (e) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and; at all times, 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 subsection (a) of this section.

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

(h) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level.

(i) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(j) No licensee shall allow openings of any kind to exist between viewing rooms or booths.

(k) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(l) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(m) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

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

(2) A person having a duty under subsections (a) through (n) of subsection (1) above commits a misdemeanor if he knowingly fails to fulfill that duty. (as added by Ord. #03-03, Sept. 2003)

9-815. Additional regulations for escort agencies. (1) An escort agency shall not employ any person under the age of eighteen (18) years of age.

(2) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years. (as added by Ord. #03-03, Sept. 2003)

9-816. Additional regulations for nude model studios. (1) A nude model studio shall not employ any person under the age of eighteen (18) years.

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

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

(4) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises except that a sofa may be placed in a reception room open to the public. (as added by Ord. #03-03, Sept. 2003)

9-817. Additional regulations concerning public nudity. (1) It shall be a violation of this chapter for a person to knowingly and intentionally, in a sexually oriented business, appear in a state of nudity or depict specified sexual activities.

(2) It shall be a violation of this chapter 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, shall be at least ten feet (10') from any person or customer and on a stage at least two feet (2') from the floor.

(3) It shall be a violation of this chapter for an employee, while semi-nude in a sexually oriented business, to solicit any payor gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.

(4) It shall be a violation of this chapter for an employee, while semi-nude, to touch a customer or the clothing of a customer. (as added by Ord. #03-03, Sept. 2003)

9-818. Prohibition against children in a sexually oriented business. A person commits a violation of this chapter if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business. (as added by Ord. #03-03, Sept. 2003)

9-819. Hours of operation. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of twelve

o'clock midnight (12:00) and eight o'clock (8:00) A.M. on weekdays and Saturdays. No sexually oriented business shall be open for business on any Sunday or legal holiday as designated in Tennessee Code Annotated, § 15-1-101. (as added by Ord. #03-03, Sept. 2003)

9-820. Exemptions. (1) It is a defense to prosecution under § 9-817 that a person appearing in a state of nudity did so in a modeling class operated:

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

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

(c) In a structure:

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

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

(iii) Where no more than one (1) nude model is on the premises at any one time. (as added by Ord. #03-03, Sept. 2003)

9-821. Penalties and injunction. Any violation of this chapter shall be punishable by a fine of not more than fifty dollars (\$50.00). Each day a sexually oriented business or sexually oriented business employee operates in violation of this chapter is a separate offense or violation. (as added by Ord. #03-03, Sept. 2003)

9-822. General provisions. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

All ordinance or parts of ordinances in conflict with the provisions of this chapter are hereby repealed. (as added by Ord. #03-03, Sept. 2003)

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

1. IN GENERAL.
2. DOGS.

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

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

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, to knowingly or negligently permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1973 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within one thousand (1,000) feet of any residence, place of business, or public street, without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1973 Code, § 3-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1973 Code, § 3-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water,

shelter, and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1973 Code, § 3-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1973 Code, § 3-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to unnecessarily beat or otherwise abuse or injure any dumb animal or fowl. (1973 Code, § 3-106)

10-107. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance. (1973 Code, § 3-107)

10-108. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1973 Code, § 3-108)

CHAPTER 2

DOGS

SECTION

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

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114). (1973 Code, § 3-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1973 Code, § 3-202)

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1973 Code, § 3-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1973 Code, § 3-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1973 Code, § 3-205)

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of

¹State law reference

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

police may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1973 Code, § 3-206)

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

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by the health officer or any policeman.¹ (1973 Code, § 3-207)

¹State law reference

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

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

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

CHAPTER 1

ALCOHOL²

SECTION

- 11-101. Drinking beer, etc., on streets, etc.
 11-102. Minors in pool halls or beer places.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a beer permit and license for on premises consumption. (1973 Code, § 10-229)

11-102. Minors in pool halls or beer places. No minor under twenty-one (21) years of age shall loiter in or around, work in, or otherwise

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).

frequent any pool hall or any place where beer is sold at retail for consumption on the premises. (1973 Code, § 10-222, modified)

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

11-201. Fortune telling, etc.

11-201. Fortune telling, etc. It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1973 Code, § 10-235, modified)

CHAPTER 3

OFFENSES AGAINST THE PERSON

SECTION

11-301. Assault and battery.

11-301. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery. (1973 Code, § 10-201)

CHAPTER 4**OFFENSES AGAINST THE PEACE AND QUIET****SECTION**

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

11-401. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1973 Code, § 10-202)

11-402. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

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

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

(c) Yelling, shouting, hooting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or

disturb the quiet, comfort, or repose of any persons in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

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

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

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

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

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

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

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

(a) Municipal vehicles. Any vehicle of the city while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the city, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the board of mayor and aldermen. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1973 Code, § 10-234)

CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-501. Escape from custody or confinement.

11-502. Impersonating a government officer or employee.

11-503. False emergency alarms.

11-504. Resisting or interfering with an officer.

11-505. Coercing people not to work.

11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the 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. (1973 Code, § 10-209)

11-502. 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. (1973 Code, § 10-211)

11-503. False emergency alarms. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1973 Code, § 10-217)

11-504. Resisting or interfering with an officer. It shall be unlawful for any person to knowingly resist or in any way interfere with or attempt to interfere with any officer or employee of the city while such officer or employee is performing or attempting to perform his municipal duties. (1973 Code, § 10-210)

11-505. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1973 Code, § 10-231)

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

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Discharge of firearms.

11-601. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1973 Code, § 10-213)

11-602. Throwing missiles. It shall be unlawful for any person to maliciously throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1973 Code, § 10-214)

11-603. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1973 Code, § 10-212, modified)

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

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

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

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave. (1973 Code, § 10-226)

11-702. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1973 Code, § 10-221)

11-703. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1973 Code, § 10-225)

11-704. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to unreasonably prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (1973 Code, § 10-233)

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

11-801. Abandoned refrigerators, etc.

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

11-803. Posting notices, etc.

11-804. Curfew for minors.

11-805. Wearing masks.

11-801. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1973 Code, § 10-223)

11-802. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1973 Code, § 10-232)

11-803. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1973 Code, § 10-227)

11-804. Curfew for minors. It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night between 11:00 P.M. and 5:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1973 Code, § 10-224)

11-805. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

- (1) Children under the age of ten (10) years.
- (2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.
- (3) Persons wearing gas masks in civil defense drills and exercises or emergencies.
- (4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1973 Code, § 10-236)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. FUEL GAS CODE.
5. RESIDENTIAL CODE.
6. ENERGY CONSERVATION CODE.
7. MECHANICAL CODE ADOPTED.
8. PROPERTY MAINTENANCE CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. International Building Code adopted.
- 12-102. Modifications.
- 12-103. Permit fees.
- 12-104. Violations.
- 12-105. Available in recorder's office.

12-101. International Building Code adopted. That a certain document, one (1) copy of which is on file in the office of the Milan City Recorder, being marked and designated as the International Building Code,² 2018 edition including Appendices B, C, H, and I, as published by the International Code Council, be and is hereby adopted as the Building Code of the City of Milan, Tennessee, for regulating and governing the conditions and maintenance of all property, buildings, and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said building code on file in the office of the Milan City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions, and changes, if any, prescribed in § 12-102 of this chapter. (1973 Code, § 4-101, as replaced by Ord. #2004-04, June 2006, and amended by Ord. #12-03, April 2012, Ord. #2018-2, March 2018 *Ch7_6-20-19*, and Ord. 2020-13, Nov. 2020 *Ch8_01-11-22*)

12-102. Modifications. The following sections of the International Building Code, 2018 edition, are hereby revised as follows:

(1) The City of Milan shall be inserted in all blanks referring to the name of the jurisdiction.

(2) Add the following text to Section 105.5: "Any work which has not had an inspection within 180 days from issuance of the permit or has not had any subsequent required inspections within 180 days from previous inspections will be deemed that the work has been suspended or abandoned and the permit shall become invalid."

(3) The blanks referring to the date of issuance shall be the effective date of this ordinance.

(4) In Section 1612.3 "November 5, 2008" is to be inserted in the blank. (1973 Code, § 4-102, as replaced by Ord. #2004-04, June 2006, Ord. #12-03, April 2012, Ord. #2018-2, March 2018 *Ch7_6-20-19*, and by Ord. #2020-13, Nov. 2020 *Ch8_01-11-22*)

12-103. Permit fees. All building permit fees are set forth in a "schedule of fees" as authorized and approved from time to time by ordinance of the board of mayor and aldermen. (1973 Code, § 4-103, modified, as deleted by Ord. #2004-04, June 2006, added by Ord. #2018-2, March 2018 *Ch7_6-20-19*, and replaced by Ord. #2020-13, Nov. 2020 *Ch8_01-11-22*)

12-104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1973 Code, § 4-104)

12-105. Available in recorder's office. Pursuant to the requirements of § 6-54-502 Tennessee Code Annotated, one (1) copy of the International Building Code, 2012 edition, has been placed on file in the office of the Milan City Recorder and shall be kept there for the use and inspection of the public during normal business hours. (as added by Ord. #2018-2, March 2018 *Ch7_6-20-19*)

CHAPTER 2

PLUMBING CODE¹

SECTION

- 12-201. International Plumbing Code adopted.
- 12-202. Modifications.
- 12-203. Permit fees.
- 12-204. Violations.
- 12-205. Available in recorder's office.

12-201. International Plumbing Code adopted. That a certain document, one (1) copy of which is on file in the office of the Milan City Recorder, being marked and designated as the International Plumbing Code,² 2018 edition, including Appendices B, D, E and F, as published by the International Code Council, be and is hereby adopted as the Plumbing Code of the City of Milan, Tennessee, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said plumbing code on file in the office of the Milan City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, deletions, and changes, if any, prescribed in § 12-202 of this chapter. (1973 Code, § 4-201, as replaced by Ord. #2006-04, June 2006, and amended by Ord. #12-04, April 2012, Ord. #2018-6, March 2018 **Ch7_6-20-19**, and Ord. #2020-12, Nov. 2020 **Ch8_01-11-22**)

12-202. Modifications. The following sections of the International Plumbing Code, 2018 edition, are hereby revised as follows:

- (1) The City of Milan shall be inserted in the blanks referring to the name of the jurisdiction.
- (2) Add the following text to Section 106.5.3: "Any work which has not had an inspection within 180 days from issuance of the permit or has not had

¹Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

any subsequent required inspections within 180 days from previous inspections will be deemed that the work has been suspended or abandoned and the permit shall become invalid."

(3) In Section 106.6.3, exceptions #2 and #3 are deleted with no substitution.

(4) In Section 108.4, the blanks referring to violations shall be inserted with "misdemeanor" and "fifty dollars" (\$50.00) as appropriate; and all references to imprisonment shall be deleted.

(5) In Section 305.4 .1, "18 inches" shall be inserted into the blanks referring to minimum depths for underground sanitary water and sewer installations.

(6) In Section 603.2, Exception #2 is deleted

(7) Add the following text to Section 904.1 "The vent stack shall extend a minimum of 12 inches above the roof at the point which it penetrates the roof." (1973 Code, § 4-202, as replaced by Ord. #2006-04, June 2006, Ord. #12-04, April 2013, Ord. #2018-6, March 2018 **Ch7_6-20-19**, and Ord. #2020-12, Nov. 2020 **Ch8_01-11-22**)

12-203. Permit fees. All fees are set forth in a "schedule of fees" as authorized and approved from time to time by ordinance of the board of mayor and aldermen. (1973 Code, § 4-203, modified, as deleted by Ord. #2006-04, June 2006, added by Ord. #2018-6, March 2018 **Ch7_6-20-19**, and replaced by Ord. #2020-12, Nov. 2020 **Ch8_01-11-22**)

12-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1973 Code, § 4-204)

12-205. Available in recorder's office. Pursuant to the requirements of § 6-54-502 Tennessee Code Annotated, one (1) copy of the International Plumbing Code, 2012 edition, has been placed on file in the office of the Milan City Recorder and shall be kept there for the use and inspection of the public during normal business hours. (as added by Ord. #2018-6, March 2018 **Ch7_6-20-19**)

CHAPTER 3

ELECTRICAL CODE¹

SECTION

12-301. Electrical code adopted.

12-302. Available in building inspector's office.

12-303. Permit required for doing electrical work.

12-304. Violations.

12-301. Electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,² 1993 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1973 Code, § 4-301, modified)

12-302. Available in building inspector's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the building inspector's office and shall be kept there for the use and inspection of the public. (1973 Code, § 4-302, modified)

12-303. Permit required for doing electrical work. No electrical work shall be done within the City of Milan until a permit therefor has been issued by the city. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1973 Code, § 4-303)

12-304. Violations. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1973 Code, § 4-304)

¹Municipal code references

Fire protection, fireworks and explosives: title 7.

²Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

CHAPTER 4

FUEL GAS CODE¹

SECTION

12-401. International Fuel Gas Code adopted.

12-402. Modifications.

12-403. Use of existing piping and appliances.

12-404. Available in recorder's office.

12-401. International Fuel Gas Code adopted. That a certain document, one (1) copy of which is on file in the office of the Milan City Recorder, being marked and designated as the International Fuel Gas Code,² 2018 edition, as published by the International Code Council, be and is hereby adopted as the Mechanical Code of the City of Milan, Tennessee, regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fuel gas code on file in the office of the Milan City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, deletions, and changes, if any, prescribed in § 12-402 of this chapter. (1973 Code, § 4-401, as replaced by Ord. #2006-04, June 2006, and amended by Ord. #12-06, April 2012, Ord. #2018-3, March 2018 *Ch7_6-20-19*, and Ord. #2020-10, Nov. 2020 *Ch8_01-11-22*)

12-402. Modifications. The following sections of the International Fuel Gas Code, 2018 edition, are hereby revised as follows:

(1) The City of Milan shall be inserted in the blanks referring to the name of the jurisdiction.

(2) Add the following text to Section 106.5.3: "Any work which has not had an inspection within 180 days from issuance of the permit or has not had any subsequent required inspections within 180 days from previous inspections will be deemed that the work has been suspended or abandoned and the permit shall become invalid."

(3) The fee schedule specified in Section 106.6 and 106.6.2 shall be as periodically set by ordinance of the board of mayor and aldermen.

(4) In Section 106.6.3 paragraphs #2 and #3 are deleted.

¹Municipal code reference

Gas system administration: title 19, chapter 2.

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

(5) In Section 108.4, the word "misdemeanor" shall be inserted in the appropriate blanks, and a maximum fine of fifty dollars (\$50.00) shall be specified; all references to imprisonment are deleted.

(6) In Section 108.5, "\$50.00" shall be inserted into the blanks specifying the maximum fine for violation of the code. (1973 Code, § 4-402, as replaced by Ord. #2006-04, June 2006, Ord. #12-06, April 2012, Ord. #2018-3, March 2018 *Ch7_6-20-19*, and Ord. #2020-10, Nov. 2020 *Ch8_01-11-22*)

12-403. Use of existing piping and appliances. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code. (1973 Code, § 4-403)

12-404. Available in recorder's office. Pursuant to the requirements of § 6-54-501 Tennessee Code Annotated, one (1) copy of the International Building Code, 2012 edition, has been placed on file in the office of the Milan City Recorder and shall be kept there for the use and inspection of the public during normal business hours. (as added by Ord. #2018-3, March 2018 *Ch7_6-20-19*)

CHAPTER 5

RESIDENTIAL CODE

SECTION

- 12-501. International Residential Code adopted.
- 12-502. Modifications.
- 12-503. Permit fees.
- 12-504. Violations.
- 12-505. Nonconforming premises not to be rented or leased or furnished with utilities.
- 12-506. Available in recorder's office.

12-501. International Residential Code adopted. That a certain document, one (1) copy of which is on file in the office of the Milan City Recorder, being marked and designated as the International Residential Code,¹ 2018 edition, including Appendices A, B, C, G, H, J, M, N, and P, as published by the International Code Council, be and is hereby adopted as the Residential Code of the City of Milan, Tennessee, regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal, and demolition of detached one- and two-family dwellings and multiple single family dwellings (townhouses) not more than three (3) stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Residential Code on file in the office of the Milan City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, deletions, and changes, if any, prescribed in § 12-502 this chapter. (1973 Code, § 4-501, as replaced by Ord. #2006-04, June 2006, and amended by Ord. #12-02, March 2012, Ord. #2018-4, March 2018 *Ch7_6-20-19*, and Ord. #2020-09, Nov. 2020 *Ch8_01-11-22*)

12-502. Modifications. The following sections of the International Residential Code, 2018 edition, are hereby revised as follows:

- (1) The City of Milan shall be inserted in the blanks referring to the name of the jurisdiction.
- (2) Add the following text to Section R105.5: "Any work which has not had an inspection within 180 days from issuance of the permit or has not had any subsequent required inspections within 180 days from previous inspections

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

will be deemed that the work has been suspended or abandoned and the permit shall become invalid."

(3) The following design criteria will be inserted in the blanks for design criteria of Table R301.2 (1).

- a. Ground Snow Load- 15
- b. Wind Speed-115
- c. No Topographic wind effects
- d. No special wind region
- e. No windborne debris zone
- f. Seismic Design Category- D1
- g. Weathering Index for Concrete- Moderate
- h. Frost Line Depth- 12"
- i. Termite Infestation probability- Heavy (Local amendment)
- j. Winter design temperature- Zone 3 IECC
- k. Ice Barrier Underlayment requirement-No
- l. Flood Hazard- Per most recent FEMA Map
- m. Air Freeze Index- Not applicable
- n. Mean Annual Temp- Not applicable

(4) Delete Section R313 with no substitutions.

(5) Delete Table N1102.1.2 "Insulation and Fenestration Requirements by Component" and insert Table 402.1.1 2009 International Energy Code "Insulation and Fenestration Requirements by Component," which may be found at the end of this chapter.*

(6) Delete Section N1102.4.1.2 "Testing" with no substitutions.

(7) Add the following to Section N1103.3.3 with no substitutions.
3. Visual Inspection.

(8) In Section 2906.4.1 the following phrase is to be deleted: "Water-service piping is permitted to be located in the same trench with a building sewer provided such sewer is constructed of materials listed for underground use within a building in section P3002.1. If the building sewer is not constructed of materials listed in Table P3002.1 (2)."

(9) Chapters 34 through 43, inclusively, are hereby deleted in their entirety. (1973 Code, § 4-502, as replaced by Ord. #2006-04, June 2006, Ord. #12-02, March 2012, Ord. #2018-4, March 2018 **Ch7_6-20-19**, and Ord. #2020-09, Nov. 2020 **Ch8_01-11-22**)

12-503. Permit fees. All building permit fees are set forth in a "schedule of fees"¹ as authorized and approved from time to time by ordinance of the board of mayor and aldermen. (1973 Code, § 4-503, modified, as deleted

¹The schedule of fees for building permits, and any amendments thereto, may be found in the recorder's office.

by Ord. #2006-04, June 2006, and added by Ord. #2018-4, March 2018
Ch7_6-20-19)

12-504. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1973 Code, § 4-504)

12-505. Nonconforming premises not to be rented or leased or furnished with utilities. It is a misdemeanor for any owner or his agent to rent or lease to another any dwelling unit in the City of Milan, Tennessee, until and unless such dwelling unit conforms to the housing code and the mayor issues a certificate to that effect.

It is also a misdemeanor for any person to lease, or rent from another, or occupy, any dwelling unit unless said dwelling conforms to the housing code and the mayor issues a certificate to that effect.

It is also a misdemeanor for any person, firm or corporation to furnish or connect or turn on any utilities such as gas, water, or electricity to the occupant of any dwelling which has been vacated just prior to the occupancy by such occupant unless said dwelling conforms to the housing code and the mayor has issued a certificate that said dwelling conforms to said code. The mayor and the building inspector are hereby authorized and directed to inspect all vacated buildings and if same comply with the provisions of the housing code they are to execute a certificate to that effect and to notify the various utility purveyors. If said dwelling does not conform to the housing code then they shall notify the owner thereof, or his agent, of such deficiencies.

Any person, firm, or corporation violating the provisions of this section shall be guilty of a misdemeanor and fined under the general penalty clause for the Milan Municipal Code. In addition, the mayor is hereby authorized and directed to file suit for an injunction to require compliance with this chapter. (1973 Code, § 4-505)

12-506. Available in recorder's office. Pursuant to the requirements of § 6-54-502 Tennessee Code Annotated, one (1) copy of the International Residential Code, 2012 edition, has been placed on file in the office of the Milan City Recorder and shall be kept there for the use and inspection of the public during normal business hours. (as added by Ord. #2018-4, March 2018
Ch7_6-20-19)

TABLE 402.1.1*

INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT

CHAPTER 4

RESIDENTIAL ENERGY EFFICIENCY

SECTION 401
GENERAL

- 401.1 Scope.** This chapter applies to residential buildings.
- 401.2 Compliance.** Projects shall comply with Sections 401, 402.4, 402.5, and 403.1, 403.2.2, 403.2.3, and 403.3 through 403.9 (referred to as the mandatory provisions) and either:
1. Sections 402.1 through 402.3, 403.2.1 and 404.1 (prescriptive); or
 2. Section 405 (performance).

401.3 Certificate. A permanent certificate shall be posted on or in the electrical distribution panel. The certificate shall not cover or obstruct the visibility of the circuit directory label, service disconnect label or other required labels. The certificate shall be completed by the builder or registered design professional. The certificate shall list the predominant R-values of insulation installed in or on ceiling/roof, walls, foundation (slab, basement wall, crawlspace wall and/or floor) and ducts outside conditioned spaces; U-factors for fenestration and the solar heat gain coefficient (SHGC) of fenestration. Where there is more than one value for each component, the certificate shall list the value covering the largest area. The certificate shall list the types and efficiencies of heating, cooling and service water heating equipment.

Where a gas-fired unvented room heater, electric furnace, or baseboard electric heater is installed in the residence, the certificate shall list "gas-fired unvented room heater," "electric furnace" or "baseboard electric heater," as appropriate. An efficiency shall not be listed for gas-fired unvented room heaters, electric furnaces or electric baseboard heaters.

SECTION 402
BUILDING THERMAL ENVELOPE

402.1 General (Prescriptive).

402.1.1 Insulation and fenestration criteria. The building thermal envelope shall meet the requirements of Table 402.1.1 based on the climate zone specified in Chapter 3.

402.1.2 R-value computation. Insulation material used in layers, such as framing cavity insulation and insulating sheathing, shall be summed to compute the component R-value. The manufacturer's settled R-value shall be used for blown insulation. Computed R-values shall not include an R-value for other building materials or air films.

TABLE 402.1.1
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT*

CLIMATE ZONE	FENESTRATION U-FACTOR ^a	SKYLIGHT ^b U-FACTOR	GLAZED FENESTRATION SHGC ^{c,*}	CEILING R-VALUE	WOOD FRAME WALL R-VALUE	MASS WALL R-VALUE ^d	FLOOR R-VALUE	BASEMENT ^e WALL R-VALUE	SLAB ^f R-VALUE & DEPTH	CRAWL SPACE WALL R-VALUE
1	1.2	0.75	0.30	30	13	3/4	13	0	0	0
2	0.65 ^g	0.75	0.30	30	13	4/6	13	0	0	0
3	0.50 ^g	0.65	0.30	30	13	5/8	19	5/13 ^h	0	5/13
4 except Marine	0.35	0.60	NR	38	13	5/10	19	10/13	10, 2 ft	10/13
5 and Marine 4	0.35	0.60	NR	38	20 or 13+5 ^h	13/17	30 ^e	10/13	10, 2 ft	10/13
6	0.35	0.60	NR	49	20 or 13+5 ^h	15/19	30 ^e	15/19	10, 4 ft	10/13
7 and 8	0.35	0.60	NR	49	21	19/21	38 ^e	15/19	10, 4 ft	10/13

- For SI: 1 foot = 304.8 mm.
- R-values are minimums. U-factors and SHGC are maximums. R-19 batts compressed into a nominal 2 x 6 framing cavity such that the R-value is reduced by R-1 or more shall be marked with the compressed batt R-value in addition to the full thickness R-value.
 - The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
 - "15/19" means R-15 continuous insulated sheathing on the interior or exterior of the house or R-19 cavity insulation at the interior of the basement wall. "13/17" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulated sheathing on the interior or exterior of the house. "10/13" means R-10 continuous insulated sheathing on the interior or exterior of the house or R-13 cavity insulation at the interior of the basement wall.
 - R-5 shall be added to the required slab edge R-values for heated slabs. Insulation depth shall be the depth of the footing or 2 feet, whichever is less in Zones 1 through 3 for heated slabs.
 - There are no SHGC requirements in the Marine Zone.
 - Basement wall insulation is not required in warm-humid locations as defined by Figure 301.1 and Table 301.1.
 - Or insulation sufficient to fill the framing cavity, R-19 minimum.
 - "13+5" means R-13 cavity insulation plus R-5 insulated sheathing. If structural sheathing covers 25 percent or less of the exterior, insulating sheathing is not required when structural sheathing is used. If structural sheathing covers more than 25 percent of exterior, structural sheathing shall be supplemented with insulating sheathing of at least R-2.
 - The second R-value applies when more than half the insulation is on the interior of the mass wall.
 - For impact rated fenestration complying with Section R301.2.1.2 of the International Residential Code or Section 1608.1.2 of the International Building Code, the maximum U-factor shall be 0.75 in Zone 2 and 0.65 in Zone 3.

CHAPTER 6

ENERGY CONSERVATION CODE¹

SECTION

- 12-601. International Energy Conservation Code adopted.
 12-602. Modifications.
 12-603. Available in recorder's office.
 12-604. Deleted.

12-601. International Energy Conservation Code adopted. That a certain document, three (3) copies of which is on file in the office of the Milan City Recorder of City of Milan, being marked and designated as the International Energy Conservation Code,² 2018 edition, and is hereby adopted as the Energy Conservation Code of the City of Milan, in the State of Tennessee for regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said energy conservation code on file in the office of the City of Milan are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in § 12-602 of this chapter. (as replaced by Ord. #10-6, August 2010, and amended by Ord. #2016-7, May 2016 *Ch7_6-20-19*, and Ord. #2020-11, Nov. 2020 *Ch8_01-11-22*)

12-602. Modifications. The following sections of the International Energy Conservation Code, 2018 edition, are hereby revised as follows:

¹State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

- (1) The City of Milan shall be inserted in the blanks referring to the name of the jurisdiction.
- (2) Add the following text to Section 403.2.2.
- (3) Visual inspection. (as replaced by Ord. #10-6, August 2010, Ord. #2016-7, May 2016 *Ch7_6-20-19*, and Ord. #2020-11, Nov. 2020 *Ch8_01-11-22*)

12-603. Available in recorder's office. Pursuant to the requirements of § 6-54-502 Tennessee Code Annotated, one (1) copy of the International Energy Conservation Code, 2009 edition, has been placed on file in the office of the Milan City Recorder and shall be kept there for the use and inspection of the public during normal business hours. (as deleted by Ord. #10-6, August 2010, and added by Ord. #2016-7, May 2016 *Ch7_6-20-19*)

12-604. Deleted. (as deleted by Ord. #10-6, August 2010)

CHAPTER 7

MECHANICAL CODE

SECTION

- 12-701. International Mechanical Code adopted.
- 12-702. Modifications.
- 12-703. Available in recorder's office.

12-701. International Mechanical Code adopted. That a certain document, one (1) copy of which is on file in the office of the Milan City Recorder, being marked and designated as the International Mechanical Code,¹ 2018 edition, including Appendix A, as published by the International Code Council, be and is hereby adopted as the Mechanical Code of the City of Milan, Tennessee, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said mechanical code on file in the office of the Milan City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, deletions, and changes, if any, prescribed in § 12-702 of this chapter. (as added by Ord. #2006-04, June 2006, and amended by Ord. #12-05, April 2012, Ord. #2018-1, March 2018 *Ch7_6-20-19*, and Ord. #2020-14, Nov. 2020 *Ch8_01-11-22*)

12-702. Modifications. The following sections of the International Mechanical Code, 2018 edition, are hereby revised as follows:

- (1) The City of Milan shall be inserted in the blanks referring to the name of the jurisdiction.
- (2) Add the following text to Section 106.4.3: "Any work which has not had an inspection within 180 days from issuance of the permit or has not had any subsequent required inspections within 180 days from previous inspections will be deemed that the work has been suspended or abandoned and the permit shall become invalid."
- (3) The fee schedule specified in Sections 106.6 and 106.5.2 shall be as periodically set by the Milan Board of Mayor and Aldermen.
- (4) Delete Section 106.5.3 with no substitution

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

(5) In Section 108.4, the blanks referring to violations shall be inserted with "misdemeanor" and "fifty dollars" (\$50.00) as appropriate; and all references to imprisonment shall be deleted.

(6) In Section 108.5, "\$50.00" shall be inserted into the blanks specifying the maximum fine for violation of the code. (as added by Ord. #2006-04, June 2006, and replaced by Ord. #12-05, April 2012, Ord. #2018-1, March 2018 *Ch7_6-20-19*, and Ord. #2020-14, Nov. 2020 *Ch8_01-11-22*)

12-703. Available in recorder's office. Pursuant to the requirements of § 6-54-502 Tennessee Code Annotated, one (1) copy of the International Mechanical Code, 2012 edition, has been placed on file in the office of the Milan City Recorder and shall be kept there for the use and inspection of the public during normal business hours. (as added by Ord. #2018-1, March 2018 *Ch7_6-20-19*)

CHAPTER 8

PROPERTY MAINTENANCE CODE

SECTION

- 12-801. International Property Maintenance Code adopted.
- 12-802. Violations.
- 12-803. Modifications.

12-801. International Property Maintenance Code adopted. The International Property Maintenance Code, 2006 edition, as published by the International Code Council, is hereby adopted as the Property Maintenance Code of the City of Milan, Tennessee, and made a part hereof as if fully set out herein verbatim, for regulating premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance, and to regulate the responsibilities of owners, operators and occupants, the occupancy of existing structures and premises, and for administration, enforcement and penalties. (as added by Ord. #11-02, Oct. 2011, and amended by Ord. #2016-4, March 2016 *Ch7_6-20-19*)

12-802. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted. (as added by Ord. #11-02, Oct. 2011)

12-803. Modifications. The official code of the City of Milan be and is hereby amended by inserting the wording eight (8) inches to the allowable height in inches, section of 302.4 Weeds of the International Property Maintenance Code, 2006. (as added by Ord. #2016-4, March 2016 *Ch7_6-20-19*)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.

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. Property to be kept clean; city authorized to clean up property at owner's expense.
- 13-108. New water wells prohibited.
- 13-109. Burying decomposable materials prohibited.

13-101. Health officer. The "health officer" shall be such city, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1973 Code, § 8-401)

13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1973 Code, § 8-405)

13-103. Stagnant water. It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-211(10).

property without treating it so as to effectively prevent the breeding of mosquitoes. (1973 Code, § 8-406)

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the director of public works or health officer to cut such vegetation when it has reached a height of over eight inches (8"). (1973 Code, § 8-407, modified, as amended by Ord. #2016-4, March 2016 *Ch7_6-20-19*)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1973 Code, § 8-408)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1973 Code, § 8-409)

13-107. Property to be kept clean; city authorized to clean up property at owner's expense. The owner or other person responsible for the care of land within the corporate limits of Milan, Tennessee, is hereby required to keep such property free and clear of cans, bottles, trash, and other debris, and high grass and weeds.

Any person, firm, corporation, or other entity violating this section shall be guilty of a misdemeanor.

Any building condemned by the fire marshal of the State of Tennessee, or any other official having authority to do so, shall be deemed to be trash or other debris within the meaning of this section.

As an additional remedy, the City of Milan may, through its own employees, casual labor, or independent contractors, clear all such property of cans, bottles, trash, other debris, or high grass and weeds, and charge the owner thereof at the cost price to the city and bill the owner therefor. Before the city takes any action under this section, it shall notify the owner of the property by regular United States Mail, if possible to do so, or write him at his last known address.

If the owner does not pay the charge or charges mentioned above the city shall add the amount of such charge or charges to the tax rolls of the city for the

next taxable year and require the owner of the land to pay such charge before paying the taxes on the land in question. (1973 Code, § 8-414)

13-108. New water wells prohibited. In order to protect the quantity and purity of the water supply of the city, it is hereby declared to be unlawful for any person, firm, corporation, or association to dig, drill, or make a water well within the corporate limits of Milan, Tennessee, provided that this shall not apply to the operation of existing wells or the replacement thereof. (1973 Code, § 8-415)

13-109. Burying decomposable materials prohibited. (1) The City of Milan hereby prohibits the burying of trees, limbs, wood products, and other decomposable items with the City of Milan except within the City of Milan Landfill.

(2) Violations of this section shall subject the offender to a penalty under the general provisions of the City of Milan Municipal Code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #12-11, July 2012)

CHAPTER 2

SLUM CLEARANCE

SECTION

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

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (Ord. #1994-02, May 1994, as replaced by Ord. #2006-05, June 2006)

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

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.

(3) "Municipality" shall mean the City of Milan, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

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

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

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

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

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated, § 3-21-101.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (Ord. #1994-02, May 1994, as replaced by Ord. #2006-05, June 2006)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the Milan Building Inspector. (Ord. #1994-02, May 1994, as replaced by Ord. #2006-05, June 2006)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint, and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (Ord. #1994-02, May 1994, as replaced by Ord. #2006-05, June 2006)

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

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

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

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the structure), requiring the owner within the time specified in the order, to remove or demolish such structure. (Ord. #1994-02, May 1994, as replaced by Ord. #2006-05, June 2006)

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (Ord. #1994-02, May 1994, as replaced by Ord. #2006-05, June 2006)

13-207. When public officer may remove or demolish. If the owner falls 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. (Ord. #1994-02, May 1994, as replaced by Ord. #2006-05, June 2006)

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of Gibson County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner falls to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes, In addition, the municipality may

collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Gibson County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in anyway the power of the City of Milan to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #2006-05, June 2006)

13-209. Basis for finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Milan. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. (as added by Ord. #2006-05, June 2006)

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Gibson County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #2006-05, June 2006)

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the public officer pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying

out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court. The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (as added by Ord. #2006-05, June 2006)

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

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

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

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

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

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (as added by Ord. #2006-05, June 2006)

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #2006-05, June 2006)

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to maintain or permit to be maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation

is allowed to continue shall constitute a separate offense. (as added by Ord. #2006-05, June 2006)

CHAPTER 3**JUNKYARDS****SECTION**

13-301. Junkyards.

13-301. Junkyards.¹ All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

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

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

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1973 Code, § 8-411)

¹State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

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

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. MOBILE HOME PARKS, MOBILE HOMES, TRAVEL TRAILER PARKS, TRAVEL TRAILERS.
4. FLOOD DAMAGE PREVENTION ORDINANCE.
5. AIRPORT ZONING ORDINANCE.

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

- 14-101. Creation and membership.
- 14-102. Vacancies and removal of members.
- 14-103. Organization, powers, duties, etc.
- 14-104. Additional powers.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members, four of whom shall be appointed from the four city wards and one who shall be a resident of the Milan Planning Region. One of the members shall be the mayor of Milan and one of the members shall be a member of the board of aldermen of Milan, who is appointed by the board of mayor and aldermen. All other members shall be appointed by the mayor, with the concurrence of a majority of the board of aldermen.

All members of the planning commission shall reside within the City of Milan or its planning region and attend the meetings as regularly as possible. The mayor shall have the authority to remove any commission member who has been absent for three (3) consecutive regular planning commission meetings.

The appointments to membership of the commission shall be so arranged that the term of membership shall be five (5) years except that the initial individual appointments to the planning commission shall be terms of one (1), two (2), three (3), four (4) and five (5) years, respectively. The terms of the mayor and alderman shall be coterminous with their terms of office. Members whose terms expire, or their successors, may be appointed for terms of four (4) years. All members shall serve without compensation. (Ord. #1994-07, July 1994)

14-102. Vacancies and removal of members. Any vacancy shall be filled for the unexpired term of the membership through appointment by the mayor, with concurrence of a majority of the board of aldermen. The mayor shall have authority to remove any appointive member with the concurrence of a majority of the board of aldermen. (Ord. #1994-07, July 1994)

14-103. 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, §§ 13-4-101 through 13-4-309 and the by-laws which it adopts. (Ord. #1994-07, July 1994)

14-104. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (Ord. #1994-07, July 1994)

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 Milan shall be governed by Ordinance #10-03, titled "Zoning Ordinance, Milan, Tennessee," and any amendments thereto.¹ (as amended by Ord. #10-03, April 2010)

¹Ordinance #10-03, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3**MOBILE HOME PARKS, MOBILE HOMES, TRAVEL TRAILER
PARKS, TRAVEL TRAILERS****SECTION**

- 14-301. Definitions.
- 14-302. Regulation of mobile homes.
- 14-303. Permit for mobile home park.
- 14-304. Inspection by city building inspector.
- 14-305. Code compliance.
- 14-306. Location and planning.
- 14-307. Minimum size of mobile home park.
- 14-308. Minimum number of spaces.
- 14-309. Minimum mobile home space and spacing of mobile homes.
- 14-310. Water supply.
- 14-311. Sewage disposal.
- 14-312. Refuse.
- 14-313. Electricity.
- 14-314. Illumination.
- 14-315. Streets.
- 14-316. Parting spaces.
- 14-317. Buffer strip.
- 14-318. Required recreation areas.
- 14-319. Mobile home stands.
- 14-320. Regulating travel trailers and travel trailer parks.
- 14-321. Permit for travel trailer park.
- 14-322. Inspections by city building inspector or county health officer.
- 14-323. Length of occupancy.
- 14-324. Location.
- 14-325. Minimum size of travel trailer space.
- 14-326. Permits.
- 14-327. Fees for permit.
- 14-328. Application for permit; mobile home parks and travel trailer parks.
- 14-329. Enforcement.
- 14-330. Board of appeals.
- 14-331. Appeals from board of appeals.
- 14-332. Violation and penalty.

14-301. Definitions. Except as specifically defined herein all words used in this chapter have their customary dictionary definitions where not inconsistent with the context. For the purpose of this chapter certain words or terms are defined as follows:

(1) The term "shall" is mandatory. When not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular. Words used in the present tense include the future.

(2) "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.

(c) Arriving at the site where it is to be occupied is a complete dwelling including major appliances and ready for occupancy except for minor and incidental unpacking and assembly operations, location of foundation supports, connection to utilities and the like.

(3) "Mobile home park." The term mobile home park shall mean any plot of ground within the City of Milan on which three (3) or more mobile homes, occupied for dwelling or sleeping purposes, are located.

(4) "Mobile home space." The term mobile home space shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

(5) "Mobile home stand." That part of an individual lot which has been reserved for the placement of the mobile home.

(6) "Travel trailer." A travel trailer, pickup camper, converted bus, tent-trailer, tent, motor home, or similar device used for temporary portable housing or a unit which:

(a) Can operate independent of connection to external sewer, water and electrical systems;

(b) Contains water storage facilities and may contain a lavatory, kitchen sink and/or bath facilities; and/or

(c) Is identified by the manufacturer as a travel trailer.

(7) "Travel trailer park." The term travel trailer park shall mean any plot of ground within the City of Milan on which two (2) or more travel trailers, occupied for camping or periods of short stay, are located.

(8) "Health officer." The director of a city, county, or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

(9) "Permit (license)." A permit is required for mobile home parks and travel trailer parks. Fees charged under the permit requirement are for inspection and the administration of this chapter. (1973 Code, § 8-501)

14-302. Regulation of mobile homes. It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities

of said city where said mobile home is outside of any designated and licensed mobile home park after the date of passage of this chapter, excepting mobile homes located on licensed mobile home sales lots.

At the time a mobile home arrives at a mobile home park, the City of Milan building inspector shall be contacted, who shall go to such location to ascertain that trailer is parked to trailer court regulations. At such time mobile home owner shall purchase a mobile home parking permit, which fee shall be \$10.00. (1973 Code, § 8-502)

14-303. Permit for mobile home park. No place or site within said city shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the city building inspector in the name of such person for the specific mobile home park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

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 parks shall be considered as a non-conforming use.

Said pre-existing mobile home parks shall comply with all state and local regulations applicable thereto which were in force prior to the establishment of said mobile home park. (1973 Code, § 8-503)

14-304. Inspections by city building inspector. The city building inspector is hereby authorized and directed to make inspections to determine the condition of mobile home parks in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The city building inspector shall have the power to enter at reasonable times after notification of owner upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter. (1973 Code, § 8-504)

14-305. Code compliance. No mobile home shall be admitted to any park unless it can be demonstrated that it meets the requirements of the American Standards Association Code Provision A-119. 1- 1963 and revisions thereto as adopted by the State of Tennessee. (1973 Code, § 8-505)

14-306. Location and planning. The mobile home park shall be located on a well drained and flood-free site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the city planning commission and shall be located in districts as specified in the zoning ordinance of the City of Milan. (1973 Code, § 8-506)

14-307. Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than three (3) acres. The tract of land shall consist of a single plot so dimensioned and related as to facilitate efficient design and maintenance. (1973 Code, § 8-507)

14-308. Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is three (3). (1973 Code, § 8-508)

14-309. Minimum mobile home space and spacing of mobile homes. 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 fifteen (15) feet of open space between mobile homes or any attachment such as a garage or porch,¹ and at least fifteen (15) feet end to end spacing between trailers and any building or structure, twenty (20) feet between any trailer and property line and thirty-five (35) feet from the right-of-way of any public street or highway. In addition each mobile home space shall contain:

- (1) A minimum lot area of five thousand (5,000) square feet;
- (2) A minimum depth with end parking of an automobile equal to the length of the mobile home plus thirty (30) feet; and
- (3) A minimum depth with side or street parking equal to the length of the mobile home plus fifteen (15) feet; and
- (4) A minimum width of at least fifty (50) feet and a minimum depth of at least one hundred (100) feet. (1973 Code, § 8-509)

14-310. Water supply. The water supply must be approved by the City of Milan Water Department. (1973 Code, § 8-510)

14-311. Sewage disposal. All sewer lines must be in accordance and approved by the City of Milan Sewer Department. Each mobile home space shall be equipped with at least a four (4) inch sewer connection, trapped below the frost line and reaching at least four (4) inches above the surface of the ground. The sewer connection shall be protected by a concrete collar, at least three (3) inches deep and extending twelve (12) inches from the connection in all directions. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line. No mobile home park shall be operated within the City of Milan that is not connected to the public sewage disposal system. (1973 Code, § 8-511)

¹If the construction of additional rooms or covered areas is to be allowed beside the mobile homes, the mobile home spaces shall be made wider to accommodate such construction in order to maintain the required fifteen (15) feet of open space.

14-312. Refuse. The storage, collection and disposal of refuse, in the park, shall be so managed as to create no health hazard. Satisfactory container racks or holders shall be provided as prescribed by the county health department. Garbage shall be collected and disposed of in an approved manner at least once per week. (1973 Code, § 8-512)

14-313. Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weatherproof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code and Tennessee Department of Commerce and Insurance Regulation No. 15, entitled "Regulations Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organization. (1973 Code, § 8-513)

14-314. Illumination. The park shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

- (1) All parts of the park street system, 0.6 footcandle, with a minimum of 0.1 footcandle.
- (2) Potentially hazardous locations, such as major street intersections and steps or stepped ramps individually illuminated with a minimum of 0.3 footcandle. (1973 Code, § 8-514)

14-315. Streets. Minimum pavement widths of various streets within mobile home parks shall be:

All streets	24 feet streets shall have a gravel base consisting of size 25 (Grade D) stone compacted to six (6) inches and a paved surface of asphaltic concrete (hot mix) -- as specified in the Tennessee Department of Highways Standard Specifications for Road and Bridge Construction, 1968, Section 411 -- compacted to one (1) inch with not less than an average weight of one hundred (100) pound; per square yard. (1973 Code, § 8-515)
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14-316. Parking spaces. Car parking shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement if traffic. Such facilities shall be provided at the rate of at least two (2) car spaces for each mobile home lot to provide for guest parking, for two car tenants and for delivery and servile vehicles. Car parking spaces shall be located for convenient access to the mobile home spaces. The size of the individual parking spaces shall have a minimum width

of not less than ten (10) feet and length of not less than twenty (20) feet. The parking spaces shall be located so access can be gained only from internal streets of the mobile home park. (1973 Code, § 8-516)

14-317. Buffer strip. An evergreen buffer strip consisting of trees, shrub or hedge which will grow to a height of not less than ten (10) feet and be spaced not more than ten (10) feet apart shall be planted along all boundaries of the mobile home park. (1973 Code, § 8-517)

14-318. Required recreation areas. In all parks accommodating or designed to accommodate 25 or more mobile homes, there shall be one or more recreation areas which shall be easily accessible to all park residents. The size of such recreation areas shall be based upon a minimum of 100 square feet for each lot. No outdoor recreation area shall contain less than 2,500 square feet. Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located. (1973 Code, § 8-518)

14-319. Mobile home stands. The area of the mobile home stand shall be improved to provide an adequate foundation for the placement of the mobile home. (1973 Code, § 8-519)

14-320. Regulating travel trailers and travel trailer parks. It shall be unlawful for any travel trailer to be occupied or serviced outside of any properly designated travel trailer park. This provision shall not apply to the storage of travel trailers provided said trailer unit is neither temporarily or permanently occupied as a dwelling unit while within the city limits. (1973 Code, § 8-520)

14-321. Permit for travel trailer park.¹ No place or site within said city shall be established or maintained by any person, group of persons, or corporation as a travel trailer park unless he holds a valid permit issued by the city building inspector in the name of such person or persons for the specific travel trailer park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter (1973 Code, § 8-521)

¹Travel trailer parks, properly regulated, fit well into general commercial complexes in which a variety of complementary facilities are available. For example, nearby groceries, general stores, filling stations, coin operated laundries, and other services are often in demand by persons looking for travel trailer parks.

14-322. Inspections by city building inspector or county health officer. The city building inspector or county health officer is hereby authorized and directed to make inspections to determine the condition of travel trailer parks, in order that he may perform his duty of safeguarding the health and safety of the occupants of travel trailer parks and of the general public. The building inspector or county health officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter. (1973 Code, § 8-522)

14-323. Length of occupancy. Travel trailer spaces shall be rented by the day or week only, and the occupant of such space shall remain in the same travel trailer park not more than fourteen (14) days. (1973 Code, § 8-523)

14-324. Location. Travel trailer parks shall be located in districts as specified in the zoning ordinance of the City of Milan. (1973 Code, § 8-524)

14-325. Minimum size of travel trailer space. Each travel trailer space shall have a minimum width of thirty (30) feet and minimum length of fifty (50) feet. Site planning improvements shall conform to the standards established in Regulations VI - XX of the State Regulations Governing the Construction, Operation and Maintenance of Organized Camps in Tennessee, as provided in Pub. Acts 1965, ch. 65. (1973 Code, § 8-525)

14-326. Permits. It shall be unlawful for any person or persons to maintain or operate, within the corporate limits of said city any mobile home park unless such person or persons shall first obtain a permit therefor. It shall be unlawful for any person or persons to maintain or operate, within the corporate limits of said city, any travel trailer park unless such person or persons shall first obtain a permit therefor. (1973 Code, § 8-526)

14-327. Fees for permit. The annual permit fee for mobile home parks shall be eighteen and 50/100 dollars (\$18.50). The annual permit fee for each travel trailer park shall be eighteen and 50/100 dollars (\$18.50). (1973 Code, § 8-527)

14-328. Application for permit; mobile home parks and travel trailer parks. Application for a mobile home park shall be filed with city building inspector and he shall issue a permit after approval by the planning commission and mayor and board of aldermen of the mobile home park plan. Applications shall be in writing and signed by the applicant and shall be accompanied with an approved plan of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements:

- (1) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one (1) inch;
- (2) Name and address of owner of record;
- (3) Proposed name of park;
- (4) Vicinity map showing location and acreage of mobile home park;
- (5) North point and graphic scale and date;
- (6) Exact boundary lines of the tract by bearing and distance;
- (7) Names of owners of record of adjoining land;
- (8) Existing streets, utilities, easements, and water courses on and adjacent to the tract;
- (9) Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;
- (10) Provisions for water supply, sewerage and drainage;
- (11) Such information as may be required by said city to enable it to determine if the proposed park will comply with legal requirements; and
- (12) The applications and all accompanying plans and specifications shall be filed in triplicate.

Certificates that shall be required:

- (a) Owner's certification;
- (b) Planning commission's approval signed by secretary; and
- (c) Any other certificates deemed necessary by the planning commission.

Applications for travel trailer parks shall meet the same requirements as contained in the preceding paragraph. (1973 Code, § 8-528)

14-329. Enforcement. It shall be the duty of the county health officer and city building inspector to enforce provisions of this chapter. (1973 Code, § 8-529)

14-330. Board of appeals. The Milan Board of Zoning Appeals shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

Any party aggrieved because of an alleged error in any order, requirement, decision or determination made by the building inspector in the enforcement of this chapter, may appeal for and receive a hearing by the Milan Board of Zoning Appeals for an interpretation of pertinent ordinance provisions. In exercising this power of interpretation of the chapter, the Milan Board of Zoning Appeals may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision or determination made by the building inspector. (1973 Code, § 8-530)

14-331. Appeals from board of appeals. Any person or persons or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the Milan Board of Zoning Appeals may seek review by a court of record of such decision in the manner provided by the laws of the State of Tennessee. (1973 Code, § 8-531)

14-332. Violation and penalty. Any person or corporation who violates the provisions of the chapter or the rules and regulations adopted pursuant thereto, or fails to perform the reasonable requirements specified by the city building inspector or county health officer after receipt of thirty-five (35) days written notice of such requirements, shall be a misdemeanor and fined as provided by this code. Each day of continued violation shall constitute a separate offense, subsequent to receipt of said thirty-five (35) day notice. (1973 Code, § 8-532)

CHAPTER 4

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

14-401. Flood damage control to be governed by flood damage prevention ordinance.

14-401. Flood damage control to be governed by flood damage prevention ordinance. Regulations governing flood damage control within the City of Milan shall be governed by Ordinance #2014-11, December 2014, titled "Milan Municipal Floodplain Zoning Ordinance" and any amendments thereto.¹

¹Ordinance #2014-11, December 2014, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 5

AIRPORT ZONING ORDINANCE

SECTION

14-501. Airport regulations to be governed by airport zoning ordinance.

14-501. Airport regulations to be governed by airport zoning ordinance. Regulations governing airport regulations within the City of Milan shall be governed by Ordinance #_____, Sept. 11, 1962, titled "Airport Zoning Ordinance of the City of Milan" and any amendments thereto.¹

¹Ordinance #_____, Sept. 11, 1962, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

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.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

²State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Damaging pavements.
- 15-122. Bicycle riders, etc.
- 15-123. Trucks restricted on McAlister Street.
- 15-124. Registration of motor vehicles.
- 15-125. Free registration for decals to ex-prisoners of war and disabled veterans--qualifications.
- 15-126. Prohibition of play vehicles on public ways.
- 15-127. Compliance with financial responsibility law required.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1973 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. (1973 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. (1973 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. (1973 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 city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1973 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. (1973 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. (1973 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 or the city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1973 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

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

Highways,¹ published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the city. This section shall not be construed as being mandatory but is merely directive. (1973 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, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1973 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 city authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1973 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 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. (1973 Code, § 9-117)

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. (1973 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, 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. (1973 Code, § 9-120)

¹This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1973 Code, § 9-121)

15-116. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1973 Code, § 9-122)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1973 Code, § 9-123)

15-118. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1973 Code, § 9-124)

15-119. 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." (1973 Code, § 9-125)

15-120. 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. (1973 Code, § 9-126)

15-121. 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. (1973 Code, § 9-119)

15-122. Bicycle riders, etc. Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

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

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

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

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

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian to knowingly permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1973 Code, § 9-127)

15-123. Trucks restricted on McAlister Street. (1) It shall be unlawful for any truck with a gross weight in excess of sixteen thousand (16,000) pounds to enter McAlister Street from Baird Street, traveling east on McAlister; and to travel west on McAlister Street from Highway 79 past the point of intersection of McAlister Street with Tanglewood Drive.

(2) Proper traffic control signs shall be erected by the street department. (1973 Code, § 9-106(A))

15-124. Registration of motor vehicles. The words "motor vehicle," as used herein, shall mean any vehicle propelled by its own power, provided that this section shall not apply to motor vehicles owned by the State of Tennessee or political divisions thereof, the United States Government, or any agency thereof, or to farm machinery or vehicles that are only occasionally used upon the streets.

Every motor vehicle owned by any person, firm, or corporation who is a resident of the City of Milan, Tennessee, and all motor vehicles owned or used by any person, firm, or corporation who resides in Gibson County and conducts a regular established business within the City of Milan or who is regularly employed therein shall be registered with the City of Milan, as hereinafter provided, prior to the use of any such motor vehicle upon the highways, streets, avenues, or alleys within the corporate limits.

All owners or operators of motor vehicles to which this section is applicable shall register the same on or before the first day of April annually and pay a registration fee of ten dollars (\$10.00) and such registration shall be renewed on or before the first day of April each year thereafter and the registration fee paid.

Upon registering a motor vehicle, as required by the provisions of this section, the police department shall obtain the name and address of the owner, a full description of the motor vehicle, including the make, model, type, motor number and state license number, which shall be kept by the police department and the police department shall issue to the owner or operator of such vehicle a duplicate of such record showing the amount of registration fee paid, the time paid, and the number of the tag, sticker, or decal issued to the owner or operator. The police department shall issue to the owner or operator of such motor vehicle a tag, sticker, or decal, which shall bear a serial number and the same shall be permanently and conspicuously attached to said motor vehicle. In case a decal is issued, the same shall be permanently attached to the lower right hand portion of the windshield so that the same may be readily observed upon inspection thereof.

Any owner or operator of a motor vehicle subject to the provisions of this section who shall fail, neglect, or refuse to register such motor vehicle, or shall fail, neglect, or refuse to pay the registration fee herein imposed, or who shall fail, neglect, or refuse to have the registration tag, sticker, or decal properly attached to the vehicle, or who shall in any manner violate any of the provisions of this section shall be guilty of a misdemeanor. (1973 Code, § 9-128, modified)

15-125. Free registration for decals to ex-prisoners of war and disabled veterans--qualifications. The City of Milan shall provide and issue free of charge to any resident of the city who, while serving in the military, naval, marine and air services of the United States, has been a prisoner of war of an enemy of the United States in World War I, World War II, or Korean Service or Vietnam Service, and to any resident of the city who is a disabled veteran. Registration and license decals, or plates, for either one (1) automobile, one (1) pickup truck, or one (1) truck up to and including a one-half (1/2) ton truck, where the pickup truck or other truck is the only mode of transportation to the ex-prisoner or war, or the disabled veteran, and is not used for re-hire. A disabled veteran being, for the purpose of this section, a veteran of World War I, World War II, or Korean Service or Vietnam Service, having served in the military, naval, marine, and air services of the United States who is entitled to compensation under the laws administered by the Veteran's Administration for any of the following due to disability incurred in or aggravated by active military, naval, marine, or air service of the United States during any one or more conflicts:

- (1) Loss or permanent loss of use of one (1) or both feet;
- (2) Loss or permanent loss of use of one (1) or both hands;
- (3) Permanent impairment of vision or both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty degrees (20°) in the better eye. (1973 Code, § 9-129)

15-126. Prohibition of play vehicles on public ways. It shall be unlawful for any person to use roller skates, coasters, skateboards, or any similar vehicle or toy or article on wheels or a runner on any public street, roadway, alley, sidewalk, or other public building or public place. (1973 Code, § 9-130)

15-127. Compliance with financial responsibility law required.

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

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

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

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

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

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

(4) Civil offence. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #02-5, June 2002)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

- 15-201. Authorized emergency vehicles defined.
- 15-202. Operation of authorized emergency vehicles.
- 15-203. Following emergency vehicles.
- 15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1973 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. (1973 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. (1973 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. (1973 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1973 Code, § 9-201)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1973 Code, § 9-202)

15-303. In school zones. It shall be unlawful for any person to operate or drive a motor vehicle at a speed in excess of fifteen (15) miles per hour when passing a school during recess or while children are going to or leaving school during its opening or closing hours. (1973 Code, § 9-203)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality. (1973 Code, § 9-204)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1973 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. (1973 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. (1973 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. (1973 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1973 Code, § 9-305)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1973 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. (1973 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. (1973 Code, § 9-403)

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1973 Code, § 9-404)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1973 Code, § 9-405)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1973 Code, § 9-406)

15-507. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

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

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

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

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1973 Code, § 9-407)

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1973 Code, § 9-408)

15-509. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, such signals shall apply as follows:

(1) "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) "Wait or Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially

completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1973 Code, § 9-409)

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1973 Code, § 9-410)

¹State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Regulation of parking.
- 15-607. Unlawful parking.
- 15-608. Presumption with respect to illegal parking.
- 15-609. Parking of certain vehicles on streets prohibited.

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 the City of Milan shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. 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 eighteen (18) inches of the left edge or curb of the street.

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. (1973 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. (1973 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. (1973 Code, § 9-503)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the 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 fifty (50) feet of a railroad crossing.
- (7) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance.
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (10) Upon any bridge.
- (11) Alongside any curb painted yellow or red by the city. (1973 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. (1973 Code, § 9-505)

15-606. Regulation of parking. In the absence of an official sign to the contrary which has been installed by the city, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the governing body, parking shall be for two (2) consecutive hours duration in parking spaces provided in the business districts, other than in designated parking lots. (1973 Code, § 9-506)

15-607. Unlawful parking. It is to be unlawful for the owner or operator of any vehicle to park, or allow his vehicle to be parked in a parking space for more than two (2) consecutive hours, or as the time may otherwise be posted, during the times set out in the foregoing section. (1973 Code, § 9-507)

15-608. 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. (1973 Code, § 9-512)

15-609. Parking of certain vehicles on streets prohibited.

- (1) Definitions. (a) "Truck" shall mean every motor vehicle designed, used, or maintained primarily for the transportation of property.
- (b) "Bus" shall mean any motor vehicle designed for carrying more than ten (10) persons.

(c) "Recreational vehicle" shall mean any motor vehicle designed for the transportation of passengers and providing temporary living quarters within it.

(d) "Trailer" shall mean every vehicle with or without motor power, designed for carrying persons or property and for being drawn by a motor vehicle.

(e) "Street" shall mean any publicly maintained street, road, highway, avenue, boulevard, parkway, lane or other way open to the public upon which motor vehicles may travel and shall include the entire width between boundary lines of every such way when any part thereof is open to use by the public for purposes of vehicular travel and passage.

(f) "Loading or unloading" shall mean to embark or disembark, or to place things into, or to remove things from, a truck, bus, recreational vehicle or trailer and shall for purposes of this section refer to the actual time necessary for such operation.

(g) "Landscaping and mowing" shall mean the planting, maintenance, spraying or cutting of trees, shrubs, bushes, hedges, flowers or grass and shall for purposes of this section refer to the actual time necessary for such operation.

(2) Parking provisions for certain trucks. It shall be unlawful for any person or entity operating or having control of any truck with a gross vehicle weight rating or gross combination weight rating of more than fourteen thousand (14,000) pounds to park it upon any street within the corporate limits of Milan, Tennessee.

(3) Parking provisions for buses and recreational vehicles. It shall be unlawful for any person or entity operating or having control of any bus or recreational vehicle to park it upon any street within the corporate limits of Milan, Tennessee.

(4) Parking provisions for trailers. It shall be unlawful for any person or entity operating or having control of any trailer to park it upon any street within the corporate limits of Milan, Tennessee.

(5) Exclusions. (a) The provisions of subsections (2), (3) and (4) of this section shall not be deemed to prohibit the lawful parking of any truck, bus, recreational vehicle or trailer upon any street for loading or unloading.

(b) The provisions of subsections (2) and (4) shall not be deemed to prohibit the parking of any truck or trailer within a properly designated construction or work zone. This provision shall be applicable only for the duration of construction or work within the designated construction or work zone.

(c) The provisions of subsection (4) shall not be deemed to prohibit the lawful parking of a trailer for landscaping and mowing.

(6) Penalty. Any person or entity owning, operating or having control of any truck, bus, recreational vehicle or trailer shall be subject to a fine of not more than fifty dollars (\$50.00) for each violation of this section.

(7) Separate offenses. For purposes of this section, each day of any violation of this section shall constitute a separate offense. (as added by Ord. #2016-14, Aug. 2016 ***Ch 7_6-20-19***)

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. Storage of disabled motor vehicles restricted.
- 15-707. Violation and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1973 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. (1973 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 thirty (30) days during the hours and at a place specified in the citation. (1973 Code, § 9-603, modified)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so

¹State law reference

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

as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto, claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until it is otherwise lawfully disposed of. The fees for impounding a vehicle shall be set by resolution.¹ (1973 Code, § 9-604, modified)

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1973 Code, § 9-605)

15-706. Storage of disabled motor vehicles restricted. No person shall permit any disabled motor vehicle to be parked, stored, placed, or allowed to remain within the city in violation of the provisions of the ordinances of the city. A disabled motor vehicle shall mean any vehicle which is incapable of being self-propelled upon the public streets, or which does not meet the requirements for operation upon the public streets, including a current license.

Disabled motor vehicles shall not be permitted in the rights-of-way of the streets, alleys, or highways within the city; provided, however, that this shall not apply to towing or similar transporting of such vehicles; and provided further that a reasonable time (not to exceed twenty-four (24) hours from the time of disability) shall be permitted for the removal or servicing of a disabled vehicle in an emergency caused by accident or sudden breakdown of the vehicle.

One disabled motor vehicle may be permitted in a side yard of a residential, commercial, or industrial lot as an accessory use to the main use of the lot; provided, that such vehicle is not located in any open space required by the zoning laws. Service and repair work may be performed on such vehicle and, incidental thereto, parts, tools, and equipment may be stored and used. Nothing obtained herein shall be construed as authorizing the disassembling, teardown, or scrapping of a motor vehicle, or to permit one motor vehicle to be salvaged, scavenged, or stripped for parts for use on another motor vehicle. Provided, however, that a disabled vehicle shall not be permitted to remain outside of a building for a period in excess of thirty (30) days on any lot used for residential purposes or on that portion of any lot within twenty (20) feet of an abutting lot used for residential purposes. Provided further that this section shall not apply to licensed garages and repair shops.

Any policemen of the City of Milan will report to the police department any violation of the provisions of this section and, after inspection by a member of the police department, the police department will notify the property owner or person responsible for the property to remedy the condition within ten (10) days. Should the condition not be remedied within the time specified in such

¹Resolutions are of record in the recorder's office.

notice, the police department shall cause the condition to be remedied at the expense of the City of Milan and the cost thereof shall become a lien upon both the real property and the disabled motor vehicle, the lien to be satisfied as any other delinquent tax lien. Further, as an alternative for enforcing this section, if the conditions should not be remedied within the time specified in such notice, the police department shall have the power to have the disabled motor vehicle, and accessories thereto, taken away by the city and, after advertising the same for sale by one notice in the local newspaper, shall proceed to sell the same at either a public or private sale, and the city shall retain the proceeds from such sale. (1973 Code, § 9-606, modified)

15-707. Violation and penalty. Any violation of this title shall be a civil offence punishable as follows:

(1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offence.

(2) Parking citations. For parking violations, the offender, may, waive his right to a judicial hearing and have the charges disposed of out of court, but the fines shall be three dollars (\$3.00) within ten days (10), and five dollars (\$5.00) thereafter. (1973 Code, § 9-603, modified, as replaced by Ord. #2016-5, April 2016 *Ch7_6-20-19*)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Property numbering system and street names.
- 16-115. Installation of private culvert on public right-of-way.
- 16-116. Maintenance of privately owned culverts.

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.

It shall be unlawful to establish roadblocks on any street or highway, or any intersection thereof, within the city limits for the purpose of collecting funds for any purpose from the traveling public. (1973 Code, § 12-201)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

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. (1973 Code, § 12-202)

16-103. Trees, etc., obstructing view at intersections prohibited.

It shall be unlawful for any property owner or occupant to have or maintain on 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. (1973 Code, § 12-203)

16-104. Projecting signs and awnings, etc., restricted.

Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (1973 Code, § 12-204)

16-105. Banners and signs across streets and alleys restricted.

It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1973 Code, § 12-205)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1973 Code, § 12-206)

16-107. Littering streets, alleys, or sidewalks prohibited.

It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1973 Code, § 12-207)

16-108. Obstruction of drainage ditches.

It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1973 Code, § 12-208)

16-109. 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

¹Municipal code reference

Building code: title 12, chapter 1.

remove all accumulated snow and ice from the abutting sidewalk. (1973 Code, § 12-209)

16-110. 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 without some responsible representative first securing a permit from the mayor. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (1973 Code, § 12-210)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1973 Code, § 12-211, modified)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1973 Code, § 12-212)

16-113. 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. (1973 Code, § 12-213)

16-114. Property numbering system and street names. (1) The property numbering system entitled "Property Numbering System, City of Milan, Tennessee," including all maps and descriptive material, is hereby adopted as the official property numbering system of the City of Milan, reference to which is hereby made for inclusion herein as fully and completely as if herein written.

(2) All property numbers assigned shall be assigned in accordance with this numbering system, and no other numbers shall be used or displayed in the City of Milan, except numbers assigned in accordance with the official property numbering system.

(3) The owner or occupant or person in charge of any house or building to which a number has been assigned will be notified by the building inspector of the number assigned to the same at any time after the effective date of this section.

(4) Within sixty (60) days after receiving notice of the number assigned by the building inspector, the owner or occupant or person in charge of a house or building to which a number has been assigned shall affix the number in a conspicuous manner in a conspicuous place over or near the principal front entrance in a color or shade contrasting to the building background; and the assigned property number shall be affixed in the form of arabic numbers not less than three (3) inches in height, and they shall be affixed in a manner as to be legible and distinguishable from the street on which the property is located.

(5) It shall be the duty of the owner or occupant or person in charge thereof upon affixing the new number to remove any different number which might be mistaken for, or confused with, the number assigned by the building inspector.

(6) No building permit shall be issued for any principal building until the owner or developer or person in charge has procured from the building inspector of the City of Milan the official number of the premises.

(7) It shall be unlawful for any person to alter, deface, or take down any number placed on any property in accordance with this section, except for repair or replacement of such number.

(8) In the event the owner or occupant or person in charge of any house or building refuses to comply with the terms of this section by failing to affix the number assigned within sixty (60) days after notification, or by failing within said period of sixty (60) days to remove any old numbers affixed to such house or building or elsewhere which may be confused with the number assigned thereto, that person shall be deemed in violation of this section and subject to fine under the general penalty clause of the municipal code.

(9) The street names shown on the maps that are part of the "Property Numbering System, City of Milan, Tennessee," are hereby established as the official names of public streets and ways within the corporate limits of the City of Milan, Tennessee. (1973 Code, § 12-214)

16-115. Installation of private culvert on public right-of-way. It shall be unlawful for any person to install any private culvert on public right of way without first obtaining permission of the Department of Milan Public Works. Milan Public Works must approve the length, size, and type of culvert required for the particular installation. For any culvert installations, the property owner is responsible for purchasing the culvert(s) and any other materials required for installation. The city will provide the labor for installation at no charge. Installation for the purposes of this section will include compacting and setting the base, grading and installing the culvert, covering and compacting to ensure the culvert is stabilized. (as added by Ord. #2016-3, March 2016 *Ch7_6-20-19*)

16-116. Maintenance of privately owned culverts. (1) It shall be unlawful for any property owner or occupant to fail to maintain any privately

owned culvert in such a way as to prevent obstruction any drainage ditch in any public right-of-way. Any repairs or replacement must be completed within forty-five (45) days of notification from the Director of the Milan Public Works. Culverts requiring replacement shall be in accordance with the procedure outlined above.

(2) Violations of the ordinance adding §§ 16-115 and 16-116 shall subject the offender to a penalty under the general provisions of the City of Milan Municipal Code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2016-3, March 2016 *Ch7_6-20-19*)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

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

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the Milan Public Works Office is open for business, and said permit shall be retroactive to the date when the work was begun. (1973 Code, § 12-101, as replaced by Ord. #13-1, Jan. 2013)

16-202. Applications. Applications for such permits shall be made to the Milan Public Works Director, or such person as the Milan Public Works Director may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

applicant will comply with all ordinances and laws relating to the work to be done. Such applications shall be rejected or approved by the Milan Public Works Office within twenty-four (24) hours of filing. (1973 Code, § 12-102, as replaced by Ord. #13-1, Jan. 2013)

16-203. Fee. The fee for such permits shall be fifteen dollars (\$15.00). (1973 Code, § 12-103, as replaced by Ord. #13-1, Jan. 2013)

16-204. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1973 Code, § 12-104, as replaced by Ord. #13-1, Jan. 2013)

16-205. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore said street, alley, or public place to its original condition using the infrared heat patching method, unless other arrangements have been made in writing with the city. Every firm, corporation, association or others making any excavation or tunnel are also required to assure that any man hole, meter cover, valve cover, or any product of similar nature that they install in the street, are installed completely flush (on every side) with the finished surface. It will be the responsibility of the permit holder to assure restoration is completed in a timely manner (maximum of 75 days from the permit issuance date). It is the responsibility of the permit holder to insure that the excavation remains in a safe and nonhazardous condition throughout the specified time frame of permit and/or until the final surface (infrared repair) has been completed. It will be the responsibility of permit holder to restore said excavation if it fails at any time in the future following infrared repair being completed. It will be the responsibility of permit holder to make restoration if any damage or injury results to anyone or anything from the lack of maintenance of said excavation prior to final surface application and/or failure of excavation in the future following final surface (infrared repair) completion. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel along with a twenty percent (20%) penalty. (1973 Code, § 12-105, as replaced by Ord. #13-1, Jan. 2013)

16-206. Insurance. Each person applying for an excavation permit shall file a certificate of insurance indicating that applicant is insured against claims for damages for personal injury as well as against claims for property damage which may arise from and out of the performance of the work, whether such performance be by applicant, applicant's subcontractor or anyone directly or indirectly employed by applicant. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars (\$300,000.00) for each person and seven hundred thousand dollars (\$700,000.00) for each accident, and for property damages not less than one hundred thousand dollars (\$100,000.00) for any one (1) accident, and a two hundred twenty-five thousand dollars (\$225,000.00) aggregate. (1973 Code, § 12-106, as replaced by Ord. #13-1, Jan. 2013)

16-207. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement is completed. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the public works director. (1973 Code, § 12-107, as replaced by Ord. #13-1, Jan. 2013)

16-208. Supervision. The public works director may from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1973 Code, § 12-108, as replaced by Ord. #13-1, Jan. 2013)

16-209. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without obtaining a permit from the Milan Public Works Office. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width at its outer edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided to separate said driveways. Driveway aprons shall not extend out into the street. (1973 Code, § 12-109, as replaced by Ord. #13-1, Jan. 2013)

16-210. [Deleted.] (1973 Code, § 12-110, as deleted by Ord. #13-1, Jan. 2013)

TITLE 17**REFUSE AND TRASH DISPOSAL¹****CHAPTER****1. REFUSE.****CHAPTER 1****REFUSE****SECTION**

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Sanitary landfill regulations.
- 17-110. Pick-up fee.

17-101. Refuse defined. Refuse shall mean and include garbage, and rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1973 Code, § 8-101)

17-102. Premises to be kept clean. All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1973 Code, § 8-102)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the city handles

¹Municipal code reference

Property maintenance regulations: title 13.

mechanically. Furthermore, except for containers which the city handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. (1973 Code, § 8-103)

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 refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the city for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1973 Code, § 8-104)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1973 Code, § 8-105)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the board of mayor and aldermen shall designate. Collections shall be made regularly in accordance with an announced schedule. (1973 Code, § 8-106)

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1973 Code, § 8-107)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (1973 Code, § 8-108)

17-109. Sanitary landfill regulations. (1) All sanitary landfills operated by the City of Milan will be open (except approved holidays) to the

citizens of Milan for the dumping of refuse, between the hours of 8:00 A.M. and 3:30 P.M., Monday through Friday.

(2) Prior to entering the sanitary landfill, all customers shall purchase landfill coupon books at city hall. A minimum fee of five dollars (\$5.00) will be imposed on all customers. Dumping fees may be adjusted at any time by a vote of the board of mayor and aldermen.

(3) All trucks with an open bed, hauling refuse on City of Milan streets or going to the City of Milan Landfill, shall be covered by:

(a) A tarpaulin or

(b) Where applicable, a close-woven wire cover, over the top of the container, or compartment in which refuse is being carried, to prevent said refuse from blowing out of said vehicle, while enroute to city landfill or traveling on the streets of the City of Milan.

(4) Failure to comply with the requirements of sub-section (3) is hereby declared to be a misdemeanor. (1973 Code, § 8-109, as amended by Ord. #65, Oct. 1991, modified)

17-110. Pick-up fee. (1) A mandatory weekly garbage pick-up to be operated by the city be and hereby is established.

(2) All residences in the city limits of Milan, including individual apartments, served by the Milan Department of Public Utilities for water, sewer or electricity shall comply with the city's garbage pick-up and pay a monthly fee of twelve and no/100 dollars (\$12.00) as billed on the monthly utility statements.

(3) The said fee may be adjusted at any time by a vote of the board of mayor and aldermen.

(4) The said fee shall be charged and collected from all parties herein made subject thereto, whether they avail themselves of the service or not.

(5) All provisions of § 17-109 of the Milan Municipal Code inconsistent with the provisions hereof are hereby repealed. (1973 Code, § 8-110, modified)

TITLE 18**WATER AND SEWERS¹****CHAPTER**

1. WATER.
2. SEWER USE ORDINANCE.
3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
4. DROUGHT MANAGEMENT.

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

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Connection charges.
- 18-107. Main extensions to developed areas.
- 18-108. Water and sewer extension policy in subdivisions.
- 18-109. Main extensions to other areas.
- 18-110. Variances from and effect of preceding rules as to extensions.
- 18-111. Meters.
- 18-112. Meter tests.
- 18-113. Multiple services through a single meter.
- 18-114. Billing.
- 18-115. Discontinuance or refusal of service.
- 18-116. Re-connection charge.
- 18-117. Termination of service by customer.
- 18-118. Access to customers' premises.
- 18-119. Inspections.
- 18-120. Customer's responsibility for system's property.
- 18-121. Customer's responsibility for violations.
- 18-122. Supply and resale of water.
- 18-123. Unauthorized use of or interference with water supply.
- 18-124. Limited use of unmetered private fire line.

¹Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

- 18-125. Damages to property due to water pressure.
- 18-126. Liability for cutoff failures.
- 18-127. Restricted use of water.
- 18-128. Interruption of service.
- 18-129. Schedule of rates.
- 18-130. Interruption of service by customer.

18-101. Application and scope. These rules and regulations are a part of all contracts for receiving water service from the City of Milan and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1978 Code, § 13-101)

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

(2) "Household" means any two (2) or more persons living together as a family group.

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

(4) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(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. (1978 Code, § 13-102, modified)

18-103. Obtaining service. A formal application for either original or additional service must be made to and approved by the city before connection or meter installation orders will be issued and work performed. (1978 Code, § 13-103)

18-104. Application and contract for service. Each prospective customer desiring water service will be required to sign a standard form contract before service is supplied. If, for any reason, a customer, after signing a contract for water service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the city for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the city to render the service applied for. If the service applied for cannot be supplied in accordance with these rules, regulations, and general practice, the liability of

the MDPU to the applicant for such service shall be limited to the return of any deposit made by such applicant. (1978 Code, § 13-104, modified)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used. (1978 Code, § 13-105)

18-106. Connection charges. Service lines will be laid by the city from the water main to the property line at the expense of the applicant for service. The location of such lines will be determined by the city.

Before a new service line will be laid by the city, the applicant shall make a deposit of the following amount with the city:

WATER

<u>Size</u>	<u>Tap Fee</u>	<u>Second meter for same tap</u>
3/4"	\$900	\$100
1"	\$1000	\$125
2" and above	Actual cost to department including labor, materials and overhead.	

The above fees are charged to compensate the department for cost of installation of customer owned water service line on public property, utility easements or other land rights or interests held by the department. It shall be the customer's responsibility to maintain his/her water service line. Should that portion of the customer's water service line installed by the department require repair or replacement, said repair or replacement will be performed by the department at no cost to the customer. In the event the customer desires to modify or relocate that portion of the water service line installed by the department for the customer's convenience, this work will be performed by the department and the customer will be billed the actual cost of the modification/relocation or \$25.00, whichever is greater. (1978 Code, § 13-106, modified, as amended by Ord. #08-01, Nov. 2008)

18-107. Main extensions to developed areas. The provisions of this section shall apply only to water main extensions of 200 feet or less to areas where there is a demand for water service by the occupants of existing houses. This section shall in no event be applicable to land development projects and subdivision promotion, even though accompanied by the erection of occasional houses within such areas. (1978 Code, § 13-107, modified)

18-108. Water and sewer extension policy in subdivisions. (1) In a new subdivision, a plan which has been submitted by the developers to and approved by the department, the planning commission and the Department of Environment and Conservation, the department will enter into a contract for the installation of a sanitary sewer system complete with mains, manholes and services, but governed by the following conditions:

(a) The number of lots in such subdivision must be of sufficient quantity to make the sewer extension feasible. (This number will usually be a minimum of ten lots.)

(b) The developer shall be responsible for installation per standard materials and specifications as adopted by the city and approved by the state.

(2) Water mains complete with fire hydrants, valves and services may be installed in subdivisions under the same terms and conditions in (1)(a) and (b) above.

(3) Proposed new houses, apartment buildings or commercial buildings along existing paved streets.

(a) Along existing paved streets where no lift station would be required the department may extend up to 200 feet of sanitary sewer main to serve a proposed residence, apartment building or commercial building. Such extension should extend to the center of such building. Construction by the department would not begin until the building is actually under construction (foundation poured, and wall sections being built). The estimated cost of extensions in excess of 200 feet shall be paid for in advance by the applicant. The applicant is to pay the usual tapping fees charged by the department.

(b) Should a lift station be required to serve the above, this would be installed only upon approval of the board of public utilities.

(c) Water mains complete with fire hydrants, valves and services may be installed along existing paved streets under the same terms and conditions in (3)(a) above. (as amended by Ord. #08-01, Nov. 2008)

18-109. Main extensions to other areas. The provisions of this section shall apply to all areas to which the preceding section is not applicable. Customers desiring water main extensions pursuant to this section must pay all of the cost of making such extensions.

For installations under this or the preceding section the Standard Materials and Specifications as adopted and approved by the board of the Milan DPU shall apply.

Upon completion of such extensions and their approval by the city, such water mains shall become the property of the MDPU. The persons paying the cost of constructing such mains shall execute any written instruments requested by the MDPU to provide evidence of the MDPU's title to such mains. In

consideration of such mains being transferred to it, the MDPU shall incorporate said mains as an integral part of the MDPU water system and shall furnish water therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. (1978 Code, § 13-108, modified, as amended by Ord. #08-01, Nov. 2008)

18-110. Variances from and effect of preceding rules as to extensions. Whenever the department of public utilities is of the opinion that it is to the best interest of the water system to construct a water main extension without requiring strict compliance with §§ 18-107 and 18-108, such extension may be constructed upon such terms and conditions as shall be approved by a majority of the members of the board.

The authority to make water main extensions under §§ 18-107 and 18-108 is permissive only and nothing contained therein shall be construed as requiring the city to make water main extensions or to furnish service to any person or persons. (1978 Code, § 13-109, modified)

18-111. Meters. All meters shall be installed, tested, repaired, and removed only by the MDPU.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the city. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1978 Code, § 13-110, modified)

18-112. Meter tests. The city will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown as set by resolution¹ of the utility board.

The city will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in an amount set by resolution¹ of the utility board.

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the city. (1978 Code, § 13-111, modified)

¹Resolutions are of record in the office of the recorder.

18-113. Multiple services through a single meter. No customer shall supply water service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of MDPU.

Where the MDPU allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise thus served. The water charge for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the city's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1978 Code, § 13-113, modified)

18-114. Billing. Bills for residential service will be rendered monthly.

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

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

In the event the bill is not paid by the discount date, the service may be discontinued after seven (7) to ten (10) additional days without further notice.

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

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available. (1978 Code, § 13-114, modified, as amended by Ord. #08-01, Nov. 2008)

18-115. Discontinuance or refusal of service. The city shall have the right to discontinue service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

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

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer

or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1978 Code, § 13-115)

18-116. Re-connection charge. Whenever service has been discontinued as provided for above, a re-connection charge, as set by resolution,¹ shall be collected by the city before service is restored. (1978 Code, § 13-116, modified)

18-117. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

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

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

(2) During the ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the city to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1978 Code, § 13-117)

18-118. Access to customers' premises. The city's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the

¹Resolutions are of record in the office of the recorder.

city, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1978 Code, § 13-118)

18-119. Inspections. The city shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water service is furnished or at any later time. The city reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by city ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (1978 Code, § 13-119)

18-120. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to properly care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1978 Code, 13-120)

18-121. Customer's responsibility for violations. Where the city furnishes water service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1978 Code, § 13-121)

18-122. Supply and resale of water. All water shall be supplied within the city exclusively by the city and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the city; however, water for ground water heat pump systems and other similar installations may be supplied and recovered by private wells within the city if said wells and the system for which they are being constructed are approved by the department of public utilities, which approval shall be applied for and obtained prior to installation, and the well and related equipment shall be subject to periodic inspection by the department of public utilities. (1978 Code, § 13-122)

18-123. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the city's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the city. (1978 Code, § 13-123)

18-124. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the MDPU. (1978 Code, § 13-124, modified)

18-125. Damages to property due to water pressure. The city shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains. (1978 Code, § 13-125)

18-126. Liability for cutoff failures. The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the city has failed to cut off such service.

(2) The city has attempted to cut off a service but such service has not been completely cut off.

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

Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also, the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1978 Code, § 13-126)

18-127. Restricted use of water. In times of emergencies or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1978 Code, § 13-127)

18-128. Interruption of service. The city will endeavor to furnish continuous water service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the city water system, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The city shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1978 Code, § 13-128)

18-129. Schedule of rates. All water furnished by the city shall be measured or estimated in gallons to the nearest multiple of 100 and shall be furnished under such rate schedules as the MDPU may from time to time adopt by action of the board.

18-130. Interruption of service by customer. No person or entity may interrupt or discontinue water service for any reason without the consent of the superintendent of the Milan Department of Public Utilities or his designate. Nothing in this paragraph is intended to hamper or defeat the efforts of fire apparatus or other emergency personnel in their response to emergency and/or life threatening events.

CHAPTER 2

SEWER USE ORDINANCE

SECTION

- 18-201. General provisions.
- 18-202. General sewer use requirements.
- 18-203. Pretreatment of wastewater.
- 18-204. Individual wastewater discharge permits.
- 18-205. Individual wastewater discharge permit issuance.
- 18-206. Reporting requirements.
- 18-207. Compliance monitoring.
- 18-208. Confidential information.
- 18-209. Publication of users in significant non-compliance.
- 18-210. Administrative enforcement remedies.
- 18-211. Judicial enforcement remedies.
- 18-212. Supplemental enforcement action.
- 18-213. Affirmative defenses to discharge violations.
- 18-214. Wastewater treatment rates.
- 18-215. Miscellaneous provisions.

18-201. General provisions. (1) Purpose and policy. This chapter sets forth uniform requirements for users of the Publicly Owned Treatment Works for the City of Milan, Tennessee and enables Milan to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] part 403). The objectives of this chapter are:

- (a) To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- (b) To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- (c) To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (d) To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- (e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- (f) To enable Milan to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal

requirements, and any other federal or state laws to which the Publicly Owned Treatment Works is subject.

This chapter shall apply to all users of the Publicly Owned Treatment Works. The chapter authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(2) Administration. Except as otherwise provided herein, the superintendent shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Superintendent of the City of Milan Department of Public Utilities (as defined by subsection (4)(mm) of this chapter) may be delegated by the superintendent to a duly authorized Milan employee.

(3) Abbreviations. The following abbreviations, when used in this chapter, shall have the designated meanings:

BMP - Best Management Practice
 BMR - Baseline Monitoring Report
 BOD₅ - Biochemical Oxygen Demand
 CFR - Code of Federal Regulations
 CIU - Categorical Industrial User
 COD - Chemical Oxygen Demand
 EPA - U.S. Environmental Protection Agency
 FOG - Fat, Oil, and Grease
 gpd - gallons per day
 IU - Industrial User
 mg/l - milligrams per liter
 NOV - Notice of Violation
 NPDES - National Pollutant Discharge Elimination System
 POTW - Publicly Owned Treatment Works
 RCRA - Resource Conservation and Recovery Act
 SIU - Significant Industrial User
 SNC - Significant Noncompliance
 TSS - Total Suspended Solids
 U.S.C. - United States Code

(4) Definitions. For purposes of this chapter, the term "shall" is mandatory and the term "may" is permissive.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(a) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

(b) "Approval Authority." The Tennessee Division of Water Pollution Control Director or his/her representative(s).

- (c) "Authorized user" or "duly authorized representative of the user."
- (i) If the user is a corporation:
 - (A) The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
 - (B) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (ii) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - (iii) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (iv) The individuals described in paragraphs (i) through (iii), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to Milan.
- (d) "Biochemical Oxygen Demand" or "BOD." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty (20) degrees centigrade, usually expressed as a concentration (e.g., mg/l).
- (e) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-202(4)(a) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(f) "Categorical pretreatment standard or categorical standard." Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405 471.

(g) "Categorical industrial user." An industrial user subject to a categorical pretreatment standard or categorical standard.

(h) "Milan." The City of Milan, Tennessee or the city board of aldermen.

(i) "Chemical Oxygen Demand" or "COD." A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

(j) "Control authority." The City of Milan, Tennessee.

(k) "Daily maximum." The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

(l) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where "daily maximum limits" are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where "daily maximum limits" are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(m) "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, the regional administrator, or other duly authorized official of said agency.

(n) "Existing source." Any source of discharge that is not a "new source."

(o) "Grab sample." A sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

(p) "Indirect discharge" or "discharge." The introduction of pollutants into the POTW from any non-domestic source.

(q) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(r) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or the collection system.

(s) "Local limit." Specific discharge limits developed and enforced by Milan upon industrial or commercial facilities to implement

the general and specific discharge prohibitions listed in Tennessee Rule 0400-40-14-.05(1)(a) and (2).

(t) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(u) "Monthly average." The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(v) "Monthly average limit." The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(w) "New source."

(i) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(A) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(B) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(C) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(ii) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (i)(B) or (C) above but otherwise alters, replaces, or adds to existing process or production equipment.

(iii) Construction of a "new source," as defined under this paragraph has commenced if the owner or operator has:

(A) Begun, or caused to begin, as part of a continuous onsite construction program

(1) Any placement, assembly, or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(x) "Noncontact cooling water." Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(y) "Pass through." A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of Milan's NPDES permit, including an increase in the magnitude or duration of a violation.

(z) "Person." Any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state or federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this state or county.

(aa) "pH." A measure of the acidity or alkalinity of a solution, expressed in standard units.

(bb) "Pollutant." Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(cc) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by

other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

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

(ee) "Pretreatment standards" or "standards." Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

(ff) "Prohibited discharge standards or prohibited discharges." Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 18-202(4) of this chapter.

(gg) "Publicly Owned Treatment Works" or "POTW." A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by Milan. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

(hh) "Septic tank waste." Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(ii) "Sewage." Human excrement and gray water (household showers, dishwashing operations, etc.).

(jj) "Significant Industrial User (SIU)." Except as provided in paragraph (3) of this section, a "significant industrial user" is:

(i) An industrial user subject to categorical pretreatment standards; or

(ii) An industrial user that:

(A) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(B) Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(C) Is designated as such by Milan on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(iii) Upon a finding that a user meeting the criteria in subsection (ii) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, Milan may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in Tennessee Rule

0400-40-14-.08(6)(f), determine that such user should not be considered a "significant industrial user."

(kk) "Slug load" or "slug discharge." Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 18-202(4) of this chapter. A "slug discharge" is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

(ll) "Storm water." Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(mm) "Superintendent." The person designated by City of Milan Department of Public Utilities to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter. The term also means a duly authorized representative of the superintendent.

(nn) "Surcharge." Additional charge beyond standard sewer charge to recover the cost to treat wastewater that has discharge concentrations above defined values, typically above domestic wastewater.

(oo) "Total suspended solids" or "suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

(pp) "User." A source of indirect discharge. The term refers to any person who discharges, causes or permits the discharge of wastewater into the POTW.

(qq) "Wastewater." Liquid and water carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

(rr) "Wastewater treatment plant" or "treatment plant." That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. (1973 Code, § 18-201, as replaced by Ord. #08-02, Nov. 2008, Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 *Ch8_01-11-22*)

18-202. General sewer use requirements. (1) Public sewer use.

(a) Connection with sanitary sewer required. (i) Sewer connection required. Every building having plumbing fixtures installed and intended for human habitation, occupancy, or use on premises abutting a street, alley, or easement in which segment there is a sanitary sewer which is within five hundred feet (500')

of the building drain of the parcel shall be considered as being served by the city's sanitary sewer system. All new buildings hereafter constructed on property which is served by the POTW shall not be occupied until the connection has been made. The owner or occupant of each lot or parcel of land which is now served or which may hereafter be served by the POTW shall cease to use any other method for the disposal of sewage except as provided for direct discharge by the TDEC or by discharge to a properly functioning and approved septic tank. Septic tanks shall not be used where sewers are available. The superintendent shall make any decision as to the availability of sewers. Notwithstanding the above exceptions, all premises served by the POTW are subject to sewer use charges as described in § 18-214 of this chapter.

(ii) Unconnected sewer service lines prohibited. Except for discharge to a properly functioning septic tank system or discharges permitted by an NPDES permit issued by the TDEC, the discharge of sewage into places other than the POTW is prohibited.

(iii) Insufficient capacity, connection moratorium. In those parts of the sewer system where no additional capacity exists and a sewer moratorium has been established pursuant to orders of the TDEC, no new or additional sewer connections shall be permitted. Permits issued prior to the date of the moratorium may be completed. No new plumbing permits shall be issued for new buildings in a moratorium area after the effective date of the moratorium. A moratorium shall continue to be in effect until capacity restriction has been corrected.

(b) Adequate and minimum fixtures. (i) Minimum number of fixtures. A dwelling shall have at least one (1) commode, one (1) bathtub or shower, one (1) lavatory, one (1) kitchen-type sink, and an adequate source of hot water for each family unit to meet minimum basic requirements for health, sanitation, and personal hygiene. All other buildings, structures, or premises intended for human occupancy or use shall be provided with adequate sanitary facilities as may be required by any other law or regulation, but not less than one (1) commode and one (1) hand washing lavatory.

(ii) Adequate water for disposal of waste. It shall be unlawful for any person in possession of premises into which a pipe or other connection with the sanitary sewers and drains have been laid to permit the same to remain without adequate fixtures attached to allow sufficient quantity of water to be so applied as to properly carry off all waste matter and keep the same unobstructed.

(iii) Right to enter and inspect connection. The superintendent, building inspector, or their representative shall have free and unobstructed access to any part of the premises where house drains or other drains connected with or draining into the sanitary sewer are laid for the purpose of examining the construction, condition, and method of use of the same, upon cause of reasonable suspicion that there may be inadequate facilities, the facilities present may not be properly functioning, there is an improper discharge, or upon a periodic systematic inspection of a particular drainage basin or other large segment of the system through those facilities at any time of the day between the hours of 8:00 A.M. and 5:00 P.M. or at any other time in the event of an emergency. If such entry is refused, the sewer service may be disconnected upon reasonable notice an opportunity for a hearing. The service may be suspended immediately in the event of an emergency if there is reasonable cause to suspect that the discharge will endanger the public health or the environment, shall have the potential to disrupt the treatment process, or shall damage the POTW's lines or facilities, and a hearing shall thereafter be afforded the user as soon as possible.

(iv) Demolished buildings. When a building is demolished, it shall be the responsibility of the owner to have the sewer service line plugged securely so that extraneous water will not enter the sewer. The owner of the premises or his representative shall notify the superintendent of such a plug and allow same to be inspected prior to covering any work. If such a line is to be reused, it must first undergo inspection by the superintendent and be in conformity with the existing standards.

(v) Temporary discharges. No person shall discharge any substance directly into a manhole or other opening in a sanitary sewer other than through an approved building sewer unless issued a temporary permit by the superintendent. A temporary permit may be issued at the discretion of the superintendent to provide for discharges from portable facilities for festivals or public shows or for other reasonable purposes. The superintendent shall incorporate in such a temporary permit such conditions as he deems reasonably necessary to ensure compliance with provisions of this chapter. The user shall be required to pay reasonable charges and fees for the permit and service in an amount not less than the charges and fees for normal discharges. Any discharge other than through an approved building sewer or in accordance with a permit issued by the superintendent shall be unlawful.

(vi) Vehicle wash racks. All gasoline stations, garages, self-service vehicle washers, and other public wash racks where

vehicles are washed shall install catch basins in conformity with the plumbing code in accordance with a permit obtained from the building official. In the event any existing premises does not have a catch basin and the sewer line servicing the facility stops up due to grit or slime in the sewer lines, then the owner or operator of such premises shall be required to modify these facilities to construct a catch basin as a condition of continuing use of the system. If such users are "significant industrial users," as defined in § 18-201(4) of this chapter, a permit as specified therein will be required.

(vii) Grease, grit, oil, and lint traps. Restaurants, laundries, wash racks, service stations, private multi-user systems, engine or machinery repair shops, and other facilities that produce grease, grit, oil, lint, or other materials which accumulate and cause or threaten to cause stoppages or impair the efficiency of the POTW sewers or threaten the safety of its employees, shall install and maintain a grease trap, grit trap, lint trap, oil interceptor, or other appropriate device of standard design and construction to prevent excess discharges of such materials. The design and construction of any such device shall be subject to prior approval of the superintendent and constructed in accordance with applicable building codes.

(viii) Multi-use private sewer systems. Excluding those industrial waste facilities with a permit issued pursuant to subsection (iv), the owner or operator of a private sewer system such as, but not limited to, multi-tenant buildings, building complexes, and shopping centers shall be responsible for the quality of wastewater discharged at the point of connection to the POTW's sanitary sewer system and shall be responsible for any violations of the provisions of this chapter, including liability for the damage or injury caused to the POTW as a result of any discharge through the private system.

(2) Building sewers, connections, and permits. (a) Installation, maintenance, repair of sewer service lines. (i) Definition. A standard sanitary sewer system line is a minimum four-inch (4") pipe extending from the sewer main or trunk location in a street, alley, or easement to the property served by the main trunk.

(ii) Installation of sewer service lines. Four-inch (4") building sewers shall be laid on a grade greater than one-eighth inches (1/8") per foot (at least one percent (1%)). Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second. The slope and alignment of all building sewers shall be neat and regular.

Building sewers shall be constructed only of one (1) of the following materials:

- (A) Cast iron soil pipe using rubber compression joints of approved type;
- (B) Polyvinyl chloride pipe Schedule 40 with rubber compression joints or solvent welded; or
- (C) Similar materials of equal or superior quality following superintendent approval.

Under no circumstances will cement mortar joints be acceptable. Each connection to the sewer system must be made at a "Y," or service line stubbed out, or in the absence of any other provision, by means of a saddle of a type approved by the city, attached to the sewer. No connection may be made by breaking into an existing sewer and inserting the service line. All such connections shall be made gastight and watertight.

The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sewer is at a grade of one percent (1%) or more. In case where basement or floor levels are lower than the ground levels at the point of connection to the sewer, adequate precautions through the 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 sewer, wastes carried by such building drain shall be lifted by an approved means and discharged into the POTW sewer.

(iii) Cleanouts. A cleanout shall be located five feet (5') outside of the building, one (1) as it connects on to the utility lateral, and one (1) at each change of direction of the building sewer greater than forty-five (45) degrees. Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of four-inch (4") diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall extend to or above the finished grade level directly above the place where the cleanout is installed. A "Y" and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4") on a four-inch (4") pipe.

(iv) Fees. 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. The city reserves the right to impose a sewer service line charge for every sanitary sewer service line installed where a lateral sewer connection has been

provided for use by the applicant. The rate of charge will be established by the City of Milan.

(v) Maintenance of service lines. All repairs and maintenance of the sewer service line to include correction of excessive inflow or infiltration shall be the responsibility of the property owner or user of the sewer. The city shall be responsible for the maintenance of collector lines only up to the point where the owner's service line connects to the city's lines.

(vi) Methods of installation. The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction or repair of a building sewer which have not been described in this section shall conform to the requirements of the building or 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 manuals. Any deviation from the prescribed procedures must be approved by the superintendent.

(vii) Public safety. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from potential hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner acceptable to the city.

(viii) Prohibitions. No person shall make connection of roof downspouts, exterior foundation drains, area drains, basement drains, or other sources of surface run-off or groundwater to a building sewer or drain which, in turn, is connected either directly or indirectly to the sanitary sewer.

(b) Service line to enter sewer at junction; exceptions. No service lines shall enter the sanitary sewer at any point except where a junction has been made unless special permission has been given by the superintendent. In any case where such permission has been given, the work shall be done under the inspection of the superintendent and at the risk and expense of the party making the connection.

(c) Application for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the superintendent for written authorization to discharge to the sanitary sewer. Applications shall be required from all new dischargers as well as for existing dischargers desiring additional service. Connection to the sanitary sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-202(2) of this chapter and an inspection has been performed by the superintendent.

Conditions made without an approved application may be served by order of the superintendent. Such unapproved connection may be allowed to remain active if inspected and accepted; however, the owner shall be required to pay an alternative fee in lieu of the permit application fee in an amount double the current fee.

The receipt by the city of a prospective customer's application for service shall in no way 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, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service, except that conditional waivers may be granted for additional services by the superintendent for interim periods if compliance may be assured within a reasonable period of time.

(d) Acceptance of work. All sewer construction involving interceptor lines, pump stations, metering stations, and appurtenances which shall become part of the city's sewer system shall not be constructed until the plans are approved and the construction inspected and approved by the superintendent. Any construction work where sewers are opened, uncovered, or undercut must also have the prior approval of the superintendent.

(3) Private domestic wastewater disposal. (a) Availability. Where a public sanitary sewer is not available under the provisions of § 18-202(1)(a) of this chapter, the building sewer shall be connected to a private wastewater disposal system complying with the requirements of this section. Where a public sewer shall become available, the building sewer shall be connected to said sewer within sixty (60) days after official notification by the superintendent.

(b) Requirements. (i) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the superintendent 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 sub-surface oil absorption facilities where the area of the lot is less than that specified by the city and the Gibson County Health Department.

(ii) Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the city and the Gibson County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the city and the Gibson County Health Department.

(iii) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction

of the city and Gibson County Health Department. They shall be allowed to inspect the work at any stage of construction and, in any event, the owner shall notify the city and Gibson County Health Department when the work is ready for final inspection, and 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 and Gibson County Health Department.

(iv) The type, capacity, location, and layout of a private sewage disposal system shall comply with all the recommendations of the approval authority, the Gibson County Health Department, and Milan. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(v) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to Milan.

(vi) No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the city and/or the Gibson County Health Department.

(4) Prohibitive discharge standards. (a) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(b) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(i) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty degrees Fahrenheit (140°F) (sixty degrees Celsius (60°C)) using the test methods specified in 40 CFR § 261.21;

(ii) Wastewater having a pH less than 5.0 or more than 10.5, or otherwise causing corrosive structural damage to the POTW or equipment;

(iii) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch (1/2") or 1.27 centimeters in any dimension;

(iv) Pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(v) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees Fahrenheit (104°F) (forty degrees Celsius (40°C));

(vi) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(vii) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(viii) Trucked or hauled pollutants, except at discharge points designated by the superintendent in accordance with § 18-203(4) of this chapter;

(ix) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(x) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating Milan's NPDES permit;

(xi) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

(xii) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(xiii) Medical wastes, except as specifically authorized by the superintendent in an individual wastewater discharge permit;

(xiv) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(xv) Detergents, surface active agents, or other substances which that might cause excessive foaming in the POTW;

(xvi) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l;

(xvii) Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the lower explosive limit of the meter.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(5) National categorical pretreatment standards. Users must comply with the categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, parts 405-471.

When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the superintendent shall impose an alternate limit in accordance with Tennessee Rule 0400-40-14-.06(5).

(6) State pretreatment standards. Users must comply with state pretreatment standards codified at Tennessee Rules Chapter 0400-40-14.

(7) Local limits. (a) The superintendent is authorized to establish local limits pursuant to Tennessee Rule 0400-40-14-.05(3). State requirements and limitations shall apply in any case where they are more stringent than federal requirements or limitations or those in this chapter.

(b) The following local pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following limit:

60 mg/L Ammonia as N	2.93 mg/l Chromium V1
1500 mg/L BOD5	2.77 mg/L Toluene
0.23 mg/L Total Cadmium	0.45 mg/L Benzene
2.93 mg/L Total Chromium	14.34 mg/L 1,1,1 Trichloroethane
1.92 mg/L Total Copper	1.05 mg/L Ethylbenzene
0.98 mg/L Total Cyanide	3.44 mg/L Carbon Tetrachloride
0.84 mg/L Total Lead	9.06 mg/L Chloroform
8.00 mg/L Total Nickel	3.32 mg/L Tetrachloroethylene
100 mg/L Total Oil and Grease	1.79 mg/L 1,2 trans Dichloroethylene
0.11 mg/L Total Silver	4.72 mg/L Methylene Chloride
12.59 mg/L Total Phenols	0.36 mg/L Naphthalene
1500 mg/L Total Suspended Solids	1.39 mg/L Total Phthalates
4.10 mg/L Total Zinc	

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The superintendent may impose mass limitations in addition to the concentration based limitations above.

In addition, wastewater having a BOD₅ in excess of two hundred fifty (250) mg/l or a TSS in excess of three hundred (300) mg/l or an ammonia in excess of fifteen (15) mg/l will be subject to a surcharge fee. This surcharge will be based on the excess pounds per day of the pollutant that exceeds the aforementioned limit. These fees shall be determined by the City of Milan.

(c) The superintendent may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement local limits and the requirements of § 18-202(4).

(8) Milan's right of revision. Milan reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this chapter.

(9) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment, to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (1973 Code, § 8-202, as replaced by Ord. #08-02, Nov. 2008, and Ord. #2014-1, Feb. 2014, as replaced by Ord. #2021-2, May 2021 *Ch8_01-11-22*)

18-203. Pretreatment of wastewater. (1) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 18-202(7) of this chapter within the time limitations specified by EPA, the state, or the superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the superintendent for review, and shall be acceptable to the superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to Milan under the provisions of this chapter.

(2) Additional pretreatment measures. (a) Whenever deemed necessary, the superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(b) The superintendent may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the superintendent, shall comply with Milan's Oil and Grease Management ordinance (if applicable), and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired in accordance with Milan's Oil and Grease Management ordinance (if applicable) by the user at their expense.

(d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(3) Accidental discharge/slug discharge control plans. The superintendent shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The superintendent may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the superintendent may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including non-routine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the superintendent of any accidental or slug discharge, as required by § 18-206(6) of this chapter; and

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(4) Hauled wastewater. (a) Septic tank waste may be introduced into the POTW only at locations designated by the superintendent, and at such times as are established by the superintendent. Such waste shall not violate subsection (2) of this chapter or any other requirements

established by Milan. The superintendent may require septic tank waste haulers to obtain individual wastewater discharge permits.

(b) The superintendent may require haulers of industrial waste to obtain individual wastewater discharge permits. The superintendent may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The superintendent also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

(c) Industrial waste haulers may discharge loads only at locations designated by the superintendent. No load may be discharged without prior consent of the superintendent. The superintendent may collect samples of each hauled load to ensure compliance with applicable standards. The superintendent may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(e) All hauled wastewater may be subject to a permit fee and/or disposal fee as established by the City of Milan (see § 18-215(1)). (1973 Code, § 8-203, as replaced by Ord. #08-02, Nov. 2008, Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 *Ch8_01-11-22*)

18-204. Individual wastewater discharge permits. (1) Wastewater analysis. When requested by the superintendent, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.

(2) Individual wastewater discharge permit requirement. (a) No significant industrial user shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the superintendent, except that a significant industrial user that has filed a timely application pursuant to § 18-204(3) of this chapter may continue to discharge for the time period specified therein.

(b) The superintendent may require other users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this chapter.

(c) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in §§ 18-210 through 18-212 of this chapter. Obtaining an individual

wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(3) Individual wastewater discharge permitting: existing connections.

Any user required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this chapter and who wishes to continue such discharges in the future shall, within sixty (60) days after said date, apply to the superintendent for an individual wastewater discharge permit in accordance with § 18-404(5) of this chapter, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this chapter except in accordance with an individual wastewater discharge permit issued by the superintendent.

(4) Individual wastewater discharge permitting: new connections.

Any User required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with § 18-204(5) of this chapter, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

(5) Individual wastewater discharge permit application contents.

(a) All users required to obtain an individual wastewater discharge permit must submit a permit application. The superintendent may require users to submit all or some of the following information as part of a permit application:

(i) Identifying information. (A) The name and address of the facility, including the name of the operator and owner.

(B) Contact information, description of activities, facilities, and plant production processes on the premises.

(ii) Environmental permits. A list of any environmental control permits held by or for the facility.

(iii) Description of operations. (A) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

(B) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(C) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(D) Type and amount of raw materials processed (average and maximum per day);

(E) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(iv) Time and duration of discharges;

(v) The location for monitoring all wastes covered by the permit;

(vi) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula in Tennessee Rule 0400-40-14-.06(5).

(vii) Measurement of pollutants. (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-206(10) of this chapter. Where the Standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) Sampling must be performed in accordance with procedures set out in § 18-206(11) of this chapter.

(viii) Any other information as may be deemed necessary by the superintendent to evaluate the permit application.

(b) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(6) Application signatories and certifications. (a) All wastewater discharge permit applications, user reports and certification statements

must be signed by an authorized representative of the user and contain the certification statement in § 18-206(14).

(b) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the superintendent prior to or together with any reports to be signed by an authorized representative.

(7) Individual wastewater discharge permit decisions. The superintendent will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete permit application, the superintendent will determine whether to issue an individual wastewater discharge permit. The superintendent may deny any application for an individual wastewater discharge permit. (1973 Code, § 8-204, as replaced by Ord. #08-02, Nov. 2008, Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 *Ch8_01-11-22*)

18-205. Individual wastewater discharge permit issuance.

(1) Individual wastewater discharge permit duration. An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the superintendent. Each individual wastewater discharge permit will indicate a specific date upon which it will expire.

(2) Individual wastewater discharge permit contents. An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(a) Individual wastewater discharge permits must contain:

(i) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(ii) A statement that the wastewater discharge permit is nontransferable without prior notification to Milan in accordance with § 18-205(4) of this chapter, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(iii) Effluent limits, including best management practices, based on applicable pretreatment standards;

(iv) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be

monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.

(v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(vi) Requirements to control slug discharge, if determined by the superintendent to be necessary.

(b) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

(i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(vii) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit; and

(viii) Other conditions as deemed appropriate by the superintendent to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(3) Permit modification. (a) The superintendent may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(i) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(ii) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

(iii) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(iv) Information indicating that the permitted discharge poses a threat to Milan's POTW, Milan personnel, or the receiving waters;

(v) Violation of any terms or conditions of the individual wastewater discharge permit;

(vi) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(vii) Revision of or a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 0400-40-14-.13;

(viii) To correct typographical or other errors in the individual wastewater discharge permit; or

(ix) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with § 18-205(4).

(4) Individual wastewater discharge permit transfer. Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least ninety (90) days advance notice to the superintendent and the superintendent approves the individual wastewater discharge permit transfer. The notice to the superintendent must include a written certification by the new owner or operator which:

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(b) Identifies the specific date on which the transfer is to occur; and

(c) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit void as of the date of facility transfer.

(5) Individual wastewater discharge permit revocation. The superintendent may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) Failure to notify the superintendent of significant changes to the wastewater prior to the changed discharge;

(b) Failure to provide prior notification to the superintendent of changed conditions pursuant to § 18-206(5) of this chapter;

- (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (d) Falsifying self-monitoring reports and certification statements;
- (e) Tampering with monitoring equipment;
- (f) Refusing to allow the superintendent timely access to the facility premises and records;
- (g) Failure to meet effluent limitations;
- (h) Failure to pay fines;
- (i) Failure to pay sewer charges;
- (j) Failure to meet compliance schedules;
- (k) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a user are void upon the issuance of a new individual wastewater discharge permit to that user.

(6) Individual wastewater discharge permit reissuance. A user with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with § 18-204(5) of this chapter, a minimum of ninety (90) days prior to the expiration of the user's existing individual wastewater discharge permit.

(7) Regulation of waste received from other jurisdictions. (a) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the City of Milan shall enter into an intermunicipal agreement with the contributing municipality.

(b) Prior to entering into an agreement required by paragraph (a), above, the superintendent shall request the following information from the contributing municipality:

- (i) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
- (ii) An inventory of all users located within the contributing municipality that are discharging to the POTW; and
- (iii) Such other information as the superintendent may deem necessary.

(c) An intermunicipal agreement, as required by paragraph (a), above, shall contain the following conditions:

- (i) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this

chapter and local limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in § 18-202(7) of this chapter. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to Milan's ordinance or local limits;

(ii) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(iii) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the superintendent; and which of these activities will be conducted jointly by the contributing municipality and the superintendent;

(iv) A requirement for the contributing municipality to provide the superintendent with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(v) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(vi) Requirements for monitoring the contributing municipality's discharge;

(vii) A provision ensuring the superintendent access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the superintendent; and

(viii) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

(ix) Where the contributing municipality has primary responsibility for permitting, compliance monitoring, or enforcement, the intermunicipal agreement should specify that the municipality (in which the POTW is located) has the right to take action to enforce the terms of the contributing municipality's ordinance or to impose and enforce pretreatment standards and requirements directly against dischargers in the event the contributing jurisdiction is unable or unwilling to take such action. (1973 Code, § 8-205, as replaced by Ord. #08-02, Nov. 2008, Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 **Ch8_01-11-22**)

18-206. Reporting requirements. (1) Baseline monitoring reports.

(a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee

Rule 0400-40-1400-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the superintendent a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall be submitted to the superintendent a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below:

(i) All information required in §§ 18-204(5)(a)(i)(A), 18-204(5)(a)(ii), 18-204(5)(a)(iii)(A), and 18-204(5)(a)(vi).

(ii) Measurement of pollutants. (A) The user shall provide the information required in § 18-204(5)(a)(vii)(A)-(D).

(B) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

(C) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined waste stream formula in Tennessee Rule 0400-40-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 0400-40-14-.06(5) this adjusted limit along with supporting data shall be submitted to the control authority.

(D) Sampling and analysis shall be performed in accordance with § 18-206(10).

(E) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(F) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is

representative of normal work cycles and expected pollutant discharges to the POTW.

(iii) **Compliance certification.** A statement, reviewed by the user's "authorized representative" as defined in § 18-206(4)(c) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(iv) **Compliance schedule.** If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-206(2) of this chapter.

(v) **Signature and report certification.** All baseline monitoring reports must be certified in accordance with § 18-206(14)(a) of this chapter and signed by an "authorized representative," as defined in § 18-201(4)(c).

(2) **Compliance schedule progress reports.** The following conditions shall apply to the compliance schedule required by § 18-206(1)(b)(iv) of this chapter:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(3) **Reports on compliance with categorical pretreatment standard deadline.** Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source

following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in §§ 18-204(5)(a)(vi) and (vii) and 18-206(2)(b) of this chapter. All compliance reports must be signed and certified in accordance with § 18-206(14)(a) of this chapter. All sampling will be done in conformance with § 18-206(11).

(4) Periodic compliance reports. (a) All users must, at a frequency determined by the superintendent, submit no less than four (4) per year (no later than the fifteenth (15th) of January, April, July, and October) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with § 18-206(14)(a) of this chapter.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent using the procedures prescribed in § 18-206(11) of this chapter, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the superintendent of any significant changes to the user's operations or system that might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-204(5) of this chapter.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-205(6) of this chapter or modify an existing wastewater discharge permit under § 18-205(3) of this chapter in response to changed conditions or anticipated changed conditions.

(6) Reports of potential problems.

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability that might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability that may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require.

(8) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if Milan performs sampling at the user's facility at least once a month, or if Milan performs sampling at the user between the time when the initial sampling was conducted and the time when the user or Milan receives the results of this sampling. If Milan performs the sampling and analysis in lieu of the industrial user, Milan will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis.

(9) Discharge of hazardous waste. The discharge of hazardous wastes, as set forth in 40 CFR part 261, to the POTW is strictly prohibited.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit

application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the superintendent or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in subsection (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the superintendent. Where time proportional composite sampling or grab sampling is authorized by Milan, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by Milan, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in §§ 18-206(1) and 18-206(3), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by § 18-206(4), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(13) Record keeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-202(7)(c). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or Milan, or where the user has been specifically notified of a longer retention period by the superintendent.

(14) Certification statement. Certification of permit applications and user reports. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-204(7); users submitting baseline monitoring reports under § 18-206(1)(b); users submitting reports on compliance with the categorical pretreatment standard deadlines under § 18-206(3); and users submitting periodic compliance reports required by § 18-206(4)(a)-(d). The following certification statement must be signed by an "authorized representative," as defined in § 18-201(4)(c):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." (1973 Code, § 8-206, as replaced by Ord. #08-02, Nov. 2008, Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 **Ch8_01-11-22**)

18-207. Compliance monitoring. (1) Right of entry: inspection and sampling. The superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or order issued hereunder. Users shall allow the superintendent ready access to all parts of the

premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the superintendent shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(c) The superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated yearly to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the superintendent and shall not be replaced. The costs of clearing such access shall be born by the user.

(e) Unreasonable delays in allowing the superintendent access to the user's premises shall be a violation of this chapter.

(2) Search warrants. If the superintendent has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of Milan designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the superintendent may seek issuance of a search warrant from the Municipal Court of Milan. (1973 Code, § 8-207, as replaced by Ord. #08-02, Nov. 2008, Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 *Ch8_01-11-22*)

18-208. Confidential information. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data.

When requested and demonstrated by the user furnishing a report that such information should be held confidential, 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 immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR § 2.302 shall not be recognized as confidential information and shall be available to the public without restriction. (1973 Code, § 8-208, as replaced by Ord. #08-02, Nov. 2008, Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 *Ch8_01-11-22*)

18-209. Publication of users in significant non-compliance. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users that, at any time during the previous twelve (12) months, were in significant non-compliance with applicable, pretreatment standards and requirements. The term "significant non-compliance" shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (c), (d) or (h) of this section) and shall mean:

(a) "Chronic violations of wastewater discharge limits," defined here as those in which sixty six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including "instantaneous limits," as defined in § 18-202;

(b) "Technical Review Criteria (TRC) violations," defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including "instantaneous limits," as defined by § 18-202 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a "pretreatment standard or requirement," as defined by § 18-202 (daily maximum, long term average, instantaneous limit, or narrative standard) that the superintendent determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report non-compliance; or

(h) Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program. (1973 Code, § 8-209, as replaced by Ord. #08-02, Nov. 2008, Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 *Ch8_01-11-22*)

18-210. Administrative enforcement remedies. (1) Notification of violation. When the superintendent finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the superintendent may serve upon that user a written notice of violation. Within ten (10) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the superintendent. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the NOV. Nothing in this section shall limit the authority of the superintendent to take any action, including emergency actions or any other enforcement action, without first issuing an NOV.

(2) Consent orders. The superintendent may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for non-compliance. Such documents shall include specific action to be taken by the user to correct the non-compliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §§ 18-210(4) and 18-210(5) of this chapter and shall be judicially enforceable.

(3) Show cause hearing. The superintendent may order a user which has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the superintendent and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the

user show cause why the 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. Such notice may be served on any "authorized representative" of the user, as defined in § 18-201(4)(c) and required by § 18-204(7)(a). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(4) Administrative orders. When the superintendent finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the superintendent may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Administrative orders also may contain other requirements to address the non-compliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. An administrative order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of an administrative order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(5) Cease and desist orders. When the superintendent finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(6) Emergency suspensions. The superintendent may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The superintendent may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's

failure to immediately comply voluntarily with the suspension order, the superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the superintendent that the period of endangerment has passed, unless the termination proceedings in § 18-210(7) of this chapter are initiated against the user.

(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the superintendent prior to the date of any show cause or termination hearing under §§ 18-210(3) or (7) of this chapter.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(7) Termination of discharge. In addition to the provisions in § 18-205(6) of this chapter, any user who violates the following conditions is subject to discharge termination:

(a) Violation of individual wastewater discharge permit conditions;

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(c) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

(e) Violation of the pretreatment standards in § 18-202 of this chapter.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 18-210(3) of this chapter why the proposed action should not be taken. Exercise of this option by the superintendent shall not be a bar to, or a prerequisite for, taking any other action against the user. (1973 Code, § 8-210, as replaced by Ord. #08-02, Nov. 2008, Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 **Ch8_01-11-22**)

18-211. Judicial enforcement remedies. (1) Injunctive relief. When the superintendent finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the superintendent may petition the municipal court through Milan's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater

discharge permit, order, or other requirement imposed by this chapter on activities of the user. The superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(2) Civil penalties. (a) A user who has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, shall be liable to Milan for a maximum civil penalty of one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The superintendent may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by Milan.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(3) Criminal prosecution. (a) A user who willfully or negligently violates any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both.

(b) A user who willfully or negligently introduces any substance into the POTW that causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least one thousand dollars (\$1,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter

shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both.

(4) Remedies nonexclusive. The remedies provided for in this chapter are not exclusive. The superintendent may take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the superintendent may take other action against any user when the circumstances warrant. Further, the superintendent is empowered to take more than one (1) enforcement action against any non-compliant user. (as replaced by Ord. #08-02, Nov. 2008, Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 *Ch8_01-11-22*)

18-212. Supplemental enforcement action. (1) Penalties for late reports. The superintendent may assess a penalty of one hundred dollars (\$100.00) to any user for each day that a report required by this chapter, a permit or order issued hereunder is late, beginning five (5) days after the date the report is due. Actions taken by the superintendent to collect late reporting penalties shall not limit the superintendent's authority to initiate other enforcement actions that may include penalties for late reporting violations.

(2) Performance bonds. The superintendent may decline to issue or reissue an individual wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to Milan, in a sum not to exceed a value determined by the superintendent to be necessary to achieve consistent compliance.

(3) Liability insurance. The superintendent may decline to issue or reissue an individual wastewater discharge to any user who has failed to comply with any provision of this chapter, a previous individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(4) Payment of outstanding fees and penalties. The superintendent may decline to issue or reissue an individual wastewater discharge permit to any user who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this chapter, a previous individual wastewater discharge permit, or order issued hereunder.

(5) Water supply severance. Whenever a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will

recommence, at the user's expense, only after the user has satisfactorily demonstrated its ability to comply.

(6) Public nuisances. A violation of any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the superintendent. Any person(s) creating a public nuisance shall be subject to the provisions of the Milan City Code governing such nuisances, including reimbursing Milan for any costs incurred in removing, abating, or remedying said nuisance.

(7) Contractor listing. Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to Milan. Existing contracts for the sale of goods or services to Milan held by a user found to be in significant non-compliance with pretreatment standards or requirements may be terminated at the discretion of the superintendent. (as added by Ord. #08-02, Nov. 2002, and replaced by Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 *Ch8_01-11-22*)

18-213. Affirmative defenses to discharge violations. (1) Upset.

(a) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary non-compliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for non-compliance with categorical pretreatment standards if the requirements of paragraph (c), below, are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the user can identify the cause(s) of the upset;

(ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(iii) The user has submitted the following information to the superintendent within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:

(A) A description of the indirect discharge and cause of non-compliance;

(B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and

(C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with categorical pretreatment standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(2) Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for non-compliance with the general prohibitions in § 18-202(4)(a) of this chapter or the specific prohibitions in §§ 18-202(4)(b)(3)-(7) and (9)-(17) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when Milan was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(3) Bypass. (a) For the purposes of this section:

(i) "Bypass" means the intentional diversion of waste streams from any portion of a user's treatment facility.

(ii) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. "Severe property damage" does not mean economic loss caused by delays in production.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this section.

(c) Bypass notifications. (i) If a user knows in advance of the need for a bypass, it shall submit prior notice to the superintendent, at least ten (10) days before the date of the bypass, if possible.

(ii) A user shall submit oral notice to the superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass. (i) Bypass is prohibited, and the superintendent may take an enforcement action against a user for a bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The user submitted notices as required under paragraph (c) of this section.

(ii) The superintendent may approve an anticipated bypass, after considering its adverse effects, if the superintendent determines that it will meet the three conditions listed in paragraph (d)(i) of this section. (as added by Ord. #08-02, Nov. 2008, and replaced by Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 *Ch8_01-11-22*)

18-214. Wastewater treatment rates. All wastewater treatment rates, including pretreatment rates and surveillance fees, shall be determined by Milan. (as added by Ord. #08-02, Nov. 2008, and replaced by Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 *Ch8_01-11-22*)

18-215. Miscellaneous provisions. (1) Pretreatment charges and fees. Milan may adopt reasonable fees for reimbursement of costs of setting up and operating Milan's Pretreatment Program, which may include:

(a) Fees for wastewater discharge permit applications including the cost of processing such applications;

(b) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports and certification statements submitted by users;

(c) Fees for reviewing and responding to accidental discharge procedures and construction;

(d) Fees for filing appeals;

(e) Fees to recover administrative and legal costs (not included in § 18-215(1)(b)) associated with the enforcement activity taken by the Superintendent to address IU non-compliance; and

(f) Other fees as Milan may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by Milan.

(2) Severability. If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect. (as added by Ord. #08-02, Nov. 2008, and replaced by Ord. #2014-1, Feb. 2014, and Ord. #2021-2, May 2021 **Ch8_01-11-22**)

CHAPTER 3

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-301. Definitions.
- 18-302. Public water supply.
- 18-303. Cross-connections, intakes, by-passes, and inter-connections.
- 18-304. Private uncovered or unsanitary storage; agreement as to on-connection.
- 18-305. Inspections.
- 18-306. Right of entry to inspect; information furnished by owners.
- 18-307. Time for compliance.
- 18-308. Approved protective devices, how and when required.
- 18-309. Water from source other than public supply.
- 18-310. Discontinuance of service.
- 18-311. Violation.

18-301. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter.

(1) "Public water supply." The waterworks system furnishing water to the City of Milan for general use and which supply is recognized as the public water supply by the Tennessee Department of Health.

(2) "Cross-connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or backpressure valves, or because of any other arrangement.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "By-pass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Inter-connection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

(6) "Person." Any and all persons, natural or artificial, including any individual firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country. (1973 Code, § 8-301)

18-302. Public water supply. The Milan public water supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 67-221-720, as well as the rules and regulations for public water supplies, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, by-passes, and inter-connections, and establish an effective, ongoing program to control these undesirable water uses. (1973 Code, § 8-302)

18-303. Cross-connections, intakes, by-passes, and inter-connections. It shall be unlawful for any person to cause a cross-connection, auxiliary intake, by-pass, or inter-connection to be made; or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health, and the operation of such cross-connection, auxiliary intake, by-pass or inter-connection is at all times under the direct supervision of the Superintendent of the Milan Department of Public Utilities of the City of Milan. (1973 Code, § 8-303)

18-304. Private uncovered or unsanitary storage; agreement as to non-connection. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the Superintendent of the Milan Department of Public Utilities of the City of Milan a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or inter-connections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or inter-connection will be permitted upon the premises. (1973 Code, § 8-304)

18-305. Inspections. It shall be the duty of the Milan Public Water Supply to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the Superintendent of the Milan Department of Utilities of the City of Milan and as approved by the Tennessee Department of Health. (1973 Code, § 8-305)

18-306. Right of entry to inspect; information furnished by owners. The Superintendent of the Milan Department of Public Utilities or his

authorized representative shall have the right to enter at any reasonable time, any property served by a connection to the Milan Public Water Supply for the purpose of inspecting the piping system or systems thereof for cross-connections, auxiliary intakes, or inter-connections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (1973 Code, § 8-306)

18-307. Time for compliance. Any person who now has cross-connections, auxiliary intakes, or inter-connections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the Superintendent of the Milan Department of Public Utilities of the City of Milan. (1973 Code, § 8-307)

18-308. Approved protective devices, how and when required. When the nature of use of the water supplied a premises by the water department is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation; or
- (2) That the person in charge of the premises cannot or will not show to the satisfaction of those in charge of the public water supply that the nature of the water usage and protective features of the plumbing are such as to pose no hazard to the quality of the public water supply; or
- (3) That changes may be made frequently or occasionally to the plumbing; or
- (4) That protective measures incorporated within the plumbing may be altered, disconnected, or by-passed.

(a) The superintendent of the Milan Department of Public Utilities of the City of Milan, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective devices shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Health as to manufacture, model, and size. The method of installation of such backflow protective device shall be approved by the Superintendent of the Milan Department of Public Utilities of the City of Milan prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health. The installation shall be at the expense of the owner or occupant of the premises.

(b) The department shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by

the Superintendent of the Milan Department of Public Utilities or his designated representative. Water service shall not be disrupted to test the device without the prior knowledge of the occupant of the premises.

(c) Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices, or some other means shall be provided to prevent interruption of the water supply, approved by the Tennessee Department of Health and the Milan Department of Utilities. Where only one unit is installed and the continuance of service is critical, the Superintendent of the Milan Department of Public Utilities shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, and the expense of such repairs shall be borne by the owner or occupant of the premises. These repairs shall be made by qualified personnel, acceptable to the Superintendent of the Department of Public Utilities of the City of Milan. (1973 Code, § 8-308)

18-309. Water from source other than public supply. Any water from a source other than the public supply which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as follows:

WATER UNSAFE

FOR DRINKING

Minimum acceptable sign shall have black letters one-inch high located on a red background. (1973 Code, § 8-309)

18-310. Discontinuance of service. The Superintendent of the Department of Public Utilities of the City of Milan shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, or inter-connection, and service shall not be restored until such cross-connection, auxiliary intake, or inter-connection has been discontinued. (1973 Code, § 8-310)

18-311. Violation. Any violation of this chapter is declared a misdemeanor. (1973 Code, § 8-311)

CHAPTER 4

DROUGHT MANAGEMENT

SECTION

- 18-401. Authority and guidelines for declaration.
- 18-402. Prohibited situations.
- 18-403. Category designation.
- 18-404. Change in category designation.
- 18-405. Drought categories defined.
- 18-406. Category implementations.
- 18-407. Prohibitions strictly enforced.
- 18-408. Sufficient water supply or pressure not guaranteed.
- 18-409. Severability.
- 18-410. Definitions.

18-401. Authority and guidelines for declaration. The mayor or his designee the superintendent of Milan Public Utilities (MPU) is hereby authorized to declare a water shortage emergency to exist in accordance with the standards set out in § 18-403. The declarer must immediately attempt to contact all board members to inform them of the emergency action. An end to a water shortage emergency must be declared by the mayor and board of alderman. (as added by Ord. #2016-11, June 2016 *Ch7_6-20-19*)

18-402. Prohibited situations. The following situations are prohibited within the system's service area, when a water shortage emergency has been declared under § 14-401.

- (1) Permitting unreasonable amounts of water to escape down a gutter, ditch or other surface drain while using water for a legitimate purpose;
- (2) Failure to repair a controllable leak of water;
- (3) Failure to put to reasonable beneficial use any use of water withdrawn from the system; and
- (4) Use of a lawn sprinkler system during or immediately after a rain event. (as added by Ord. #2016-11, June 2016 *Ch7_6-20-19*)

18-403. Category designation. The declaration of a water shortage emergency shall designate whether it is a category 1, 2, 3 or 4 water shortage emergencies as outlined in § 18-405 of this chapter. (as added by Ord. #2016-11, June 2016 *Ch7_6-20-19*)

18-404. Change in category designation. The declaration may be scaled up or down during the emergency, as declared by the mayor or his designee. (as added by Ord. #2016-11, June 2016 *Ch7_6-20-19*)

18-405. Drought categories defined. The City of Milan has four (4) categories of a water shortage emergency. They are listed below with an initiating condition and the actions to be taken in each category.

<u>Category</u>	<u>Initiating Conditions</u>	<u>Actions</u>
1. Water Alert	Drought conditions in the region, or Demand reaches 70 percentage of supply for 3 or more consecutive days, or Water storage is approaching the minimum volume required for fire protection or other essential needs.	Voluntary water reduction
2. Serious Shortage	Demand reaches 85 percentage of supply for 3 or more consecutive days.	Mandatory water restrictions
3. Critical Shortage	Demand reaches 95 percent or greater of supply for 3 or more consecutive days.	Water use prohibitions
4. Water Emergency	System failure or treatment plant failure, supply or system contamination, any other catastrophic event	Immediate notification of customers, implementation of stage 2 and 3 actions, seek assistance from other agencies, emergency council session

(as added by Ord. #2016-11, June 2016 *Ch7_6-20-19*)

18-406. Category implementations. The following will be implemented as listed for each of the water shortage categories in § 14-405 once a water shortage emergency has been declared.

(1) Category 1---water alert. The declaration will activate a process to notify the customers of the potential water shortage and what voluntary measures that are asked to be implemented.

(a) Ask customers to voluntarily comply with the following water-use restrictions:

- (i) Cease frivolous use of water.
- (ii) Cease watering the landscape between the hours of 9:00 A.M. to 7:00 P.M.
- (iii) Water landscape during the hours not listed above, on alternative days. (Even numbered addresses on even days, odd numbered addresses on odd days.)

(iv) Notify the local news media, if appropriate, to ask for their assistance in notifying customers.

(v) Initiate other water conservation measures; and

(b) Actively promote drought related issues and the need to conserve.

(2) Category 2---serious water shortage. The declaration will activate a process to notify the customers of the potential water shortage and what mandatory water restrictions are in effect.

(a) Irrigation of landscaped areas: Outdoor watering hours will be limited to between midnight and 9:00 A.M. and between 7:00 P.M. and midnight on designated days as set forth in the Milan Public Utilities Drought Management Plan. This prohibition does not apply to irrigation of landscaped areas if it is by means of:

(i) A hand-held hose; or

(ii) A faucet-filled bucket or watering can of five gallons or less.

Commercial greenhouses and greenery suppliers will limit their watering of plants to every other day. Watering will not be allowed from 9:00 A.M. to 7:00 P.M. Drip style irrigation shall be utilized unless permission to use other styles has been granted by the mayor or his designee.

(b) Vehicle washing: Use of water to wash any motor vehicle, such as a motorbike, boat, trailer, or airplane is prohibited except on designated watering days between the hours of midnight and 10:00 A.M. and between 7:00 P.M. and midnight. Such activity, when allowed, shall be done with a handheld bucket or a hand-held hose equipped with a positive shutoff nozzle. A vehicle may be washed any time at a commercial car wash facility or commercial service station. Further, this activity is exempt from these regulations if the health, safety, and welfare of the public are served by washing the vehicle, such as a truck used to collect garbage or used to transport food and perishables.

(c) Pools:

(i) Filling of all new and existing swimming pools, hot tubs, wading pools, is prohibited. Replenishing to maintenance level is permitted. Draining is permitted only onto pervious surfaces or onto a surface where water will be transmitted directly to a pervious surface, and only if:

(A) Draining excess water from pool due to rain in order to lower water to maintenance level;

(B) Repairing, maintaining or replacing pool components that have become hazardous; or

(C) Repair of a pool leak.

(ii) Refilling of public/community swimming pools permitted only if pool has been drained for repairs, maintenance, or replacement as outlined in items above.

(iii) Exception from filling is only acceptable if pool is used for a neighborhood fire control supply or the pool's use is required by a medical doctor's prescription.

(d) Outside water features: operation of outside water features, such as, but not limited to, fountains, splash pad type fountains or outdoor misting systems, is prohibited, except where such features are used to sustain aquatic life or maintain water quality. (This provision includes fountains associated with aesthetic ponds and swimming pools).

(e) Ponds: Ponds used for aesthetic, amenity, and/or storm water purposes may maintain water levels only necessary to preserve the integrity of the liner and operating system. The city through MPU may request specific design documentation regarding a pond and the intended purpose.

(f) Golf courses: Golf courses receiving any amount of treated water from MPU must limit watering to only tees and greens and not other golf course areas.

(g) Events: Events involving the use of water such as: car washes, festivals, parties, water slides, and other activities involving the use of water are permitted, if the water being used drains to a recirculating device, or onto a pervious surface to prevent water waste.

(h) Restaurants: All restaurants are encouraged to serve water to their patrons only upon request.

(i) Fire hydrants: Use of water from fire hydrants shall be limited to firefighting and activities necessary to maintain public health, safety, and welfare. Use of water from designated fire hydrants for construction purposes may be allowed under special conditions and requires a meter; a variance application must be submitted with an explanation of the special conditions.

(j) Recreational areas (includes parks and athletic fields): The areas can only be used for designated or scheduled events or activities. Unnecessary foot traffic must be discouraged. Watering must follow a no more than twice per week schedule. A variance can be obtained if watering cannot be completed on the designated two (2) day schedule.

(k) Water waste: The following non-essential uses of water are prohibited at all times during periods in which restrictions have gone into effect:

(i) Washing sidewalks, walkways, driveways, parking lots, street, tennis courts, and other impervious surfaces is prohibited except for immediate health and safety;

(ii) Washing buildings, houses or structures with a pressure washer or garden hose is prohibited for aesthetic purposes but allowable for surface preparation of maintenance work to be performed;

(ii) Flushing gutters or flooding gutters is prohibited except for immediate health and safety; and

(iv) Controlling dust is prohibited, unless there is a demonstrated need to do so for reasons of public health and safety, or as part of an approved construction plan.

(3) Category 3---critical water shortage. The declaration will activate a process to notify the customers of the potential water shortage and what mandatory water restrictions are in effect. All requirements of Stage 2 shall remain in effect during Stage 3, with the following modifications and additions:

(a) Irrigation of Landscaped areas:

(i) Irrigation of landscaped areas is prohibited, except with hand-held hoses, hand-held buckets, or drip irrigation. The use of hose-end sprinklers or in-ground irrigation systems are prohibited at all times during Stage 3.

(ii) No new landscapes may be installed.

(b) Vehicle washing: Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle is prohibited. A vehicle can be washed at any time at a commercial car wash facility or commercial service station that recycles its water. Further, this activity is exempt from these regulations if the health, safety, and welfare of the public are served by washing the vehicle, such as a truck used to collect garbage or used to transport food and perishables.

(c) Pools: Installation of swimming pools is prohibited. The filling or replenishing of water to swimming pools, hot tubs, wading pools, and other types of pools is prohibited. Public/community swimming pools may be exempt from this prohibition to maintain safe levels of water quality for human contact.

(d) Events: Events involving the use of water such as: car washes; festivals; parties; water slides; and other activities involving the use of water are prohibited.

(e) Recreational areas (includes parks and athletic fields): The areas can only be used for designated or scheduled events or activities. Unnecessary foot traffic must be discouraged. Watering is prohibited except with a hand-held hose.

(f) Issue public service announcements to notify customers of the severity of the conditions.

(4) Category 4---emergency water shortage. The declaration will activate a process to notify the customers of the potential water shortage and what mandatory water restrictions are in effect. All requirements of Stages 1 through 3 are also in effect during Stage 4, with the following modifications and additions:

(a) Irrigation of landscaped areas is prohibited.

(b) Use of water from fire hydrants shall be limited to firefighting and activities necessary to maintain public health, safety, and welfare only.

(c) No applications for new, additional, expanded, or larger water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be allowed or approved. (as added by Ord. #2016-11, June 2016 *Ch7_6-20-19*)

18-407. Prohibitions strictly enforced. Water waste prohibitions set forth in this chapter will be strictly enforced. Violators may be cited pursuant to Milan Municipal Code, and water service may be interrupted for repeat violations as set forth in the Milan Public Utilities Drought Management Plan. (as added by Ord. #2016-11, June 2016 *Ch7_6-20-19*)

18-408. Sufficient water supply or pressure not guaranteed. The city cannot and does not guarantee either sufficient supply or adequate or uniform pressure during a water shortage. The city shall not be liable for any damages or loss resulting from an inadequate or interrupted supply, from pressure variations, or for damages from the resumption of service when such conditions are not due to willful fault or neglect on its part. (as added by Ord. #2016-11, June 2016 *Ch7_6-20-19*)

18-409. Severability. That if any section, subsection, sentence, clause or phrase of this chapter is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The City of Milan Board of Mayor and Alderman hereby declares that it would have passed this chapter, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one (1) or more section, subsections, sentences, clauses and phrases be declared unconstitutional. (as added by Ord. #2016-11, June 2016 *Ch7_6-20-19*)

18-410. Definitions. (1) "Essential use." The use of water is strictly for fire fighting, safety, sanitation, health and medical purposes, and the use to satisfy federal, state and local public health and safety requirements.

(2) "Domestic use." Any use of water for household purpose such as drinking, bathing, heating, cooking, sanitation or cleaning, whether the use occurs in a residence or in a commercial or industrial establishment.

(3) "Non-essential use." All other uses for water other than essential or domestic use. (as added by Ord. #2016-11, June 2016 *Ch7_6-20-19*)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY¹

SECTION

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Electricity shall be furnished for the city and its inhabitants under such franchise as the board of mayor and aldermen shall grant.² The rights, powers, duties, and obligations of the city, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1973 Code, § 13-301)

¹Municipal code reference
Electrical code: title 12.

²The agreements are of record in the office of the city recorder.

CHAPTER 2**GAS¹****SECTION**

19-201. To be furnished under franchise.

19-201. To be furnished under franchise. Gas service shall be furnished for the city and its inhabitants under such franchise as the board of mayor and aldermen shall grant. The rights, powers, duties, and obligations of the city, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.² (1973 Code, § 13-401)

¹Municipal code reference
Gas code: title 12.

²The agreements are of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

1. GIBSON COUNTY CIVIL DEFENSE ORGANIZATION.
2. PRIVATE SWIMMING POOLS.
3. SPECIAL EVENTS.
4. TREE TRIMMING POLICY AND FEE PERMIT.

CHAPTER 1

GIBSON COUNTY CIVIL DEFENSE ORGANIZATION

SECTION

- 20-101. Gibson County Civil Defense Organization created.
- 20-102. Authority and responsibility.
- 20-103. Office of director, his authority and responsibility.
- 20-104. Gibson County Civil Defense Corps created.
- 20-105. No municipal or private liability.
- 20-106. Expenses of civil defense.

20-101. Gibson County Civil Defense Organization created. There is hereby created the Gibson County Civil Defense Organization which shall be a joint operation by the City of Milan and the County of Gibson, for the purpose of organizing and directing civil defense for the citizens of the entire county. All other civil defense agencies within the corporate limits of Gibson County shall be considered as a total part of the county-wide civil defense emergency resources and when such agencies operate out of its corporate limits, it shall be at the direction of, subordinate to, and as a part of the Gibson County Civil Defense Organization. (1973 Code, § 1-1201)

20-102. Authority and responsibility. In accordance with federal and state enactments of law, the Gibson County Civil Defense Organization is hereby authorized to assist the regular government of the county, and governments of all political subdivisions therein, as may be necessary due to enemy caused emergencies or natural disasters including, but not limited to, storms, floods, fires, explosions, tornadoes, hurricanes, droughts, or peace-time man-made disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of Gibson County. The Gibson County Civil Defense Organization is hereby authorized to perform such duties and functions as may be necessary on account of said disasters. The Gibson County Civil Defense Organization is hereby designated the official agency to assist regular forces in time of said emergencies.

The Gibson County Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in Gibson County, to establish and coordinate emergency plans, forces, means, and resources, and is hereby designated the official agency to establish such emergency plans. (1973 Code, § 1-1202)

20-103. Office of director, his authority and responsibility. The office of the director of civil defense is hereby created. The director shall have the authority to request the declaration of the existence of an emergency by the mayor and county judge, or either, or by higher authority as appropriate.

The director shall have overall responsibility for the preparation of all plans and recruitment and training of personnel. All local civil defense plans will be in consonance with state plans and shall be approved by the state civil defense office.

The director is hereby given the authority to delegate such responsibility and authority as is necessary to carry out the purports of this chapter, subject to the approval of the chief executive officers of the city and county.

The director shall be responsible to the chief executive officers of the city and county for the execution of the authorities, duties, and responsibilities of the Gibson County Civil Defense Organization, for the preparation of all plans and administrative regulations, and for recruitment and training of personnel. (1973 Code, § 1-1203)

20-104. Gibson County Civil Defense Corps Created. The Gibson County Civil Defense Corps is hereby created. The corps shall be under the direction of the director of civil defense and his staff members with delegated authority. It shall consist of designated regular government employees and volunteer workers. Duties and responsibilities of the corps members shall be outlined in the civil defense emergency plan. (1973 Code, § 1-1204)

20-105. No municipal or private liability. The duties prescribed in this document is an exercise by the city and county of their governmental functions for the protection of the public peace, health, and safety, and neither the City of Milan nor Gibson County, nor the agents and representatives of said city and county nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with, or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this document shall be liable for any damage sustained to person or property as the result of said activity. Any person owning or controlling real estate or other premises for the purpose of sheltering persons during an actual, impending, or practice attack, shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or promises under such

license, privilege, or other permission or for loss of, or damage to, the property of such person. (1973 Code, § 1-1205)

20-106. Expenses of civil defense. No person shall have the right to expend any public funds of the city and county in carrying out any civil defense activities authorized by this document without prior approval by the governing bodies of the city or county or both; nor shall any person have any right to bind the city or county by contract, agreement, or otherwise without prior and specific approval by the governing body of the city and/or county or both. The civil defense director shall disburse monies as may be provided annually by appropriation of the city and county for the operation of the civil defense organization. He shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the city and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit either by the City of Milan or Gibson County. The civil defense director is hereby authorized to accept federal contributions in money, equipment, or otherwise, when available, or state contributions to the civil defense organization, such funds becoming liable for audit by the city or county. (1973 Code, § 1-1206)

CHAPTER 2

PRIVATE SWIMMING POOLS

SECTION

20-201. Private swimming pools.

20-202. Conformation to district requirements.

20-203. Enclosure required.

20-204. Construction on easements prohibited.

20-201. Private swimming pools. Private swimming pools shall not be considered as an accessory use but shall conform to the requirements of an accessory structure, if not otherwise excepted. All such pools shall be installed to city requirements, as herein provided, and a city permit shall be required and approved by the building inspector prior to construction or installation. Commercial swimming pools on residential property are prohibited. (1973 Code, § 4-601)

20-202. Conformation to district requirements. Swimming pools shall conform to the zoning district's yard requirements, and any swimming pool enclosure required by this chapter shall be at least five (5) feet from all lot lines and from any other building on the same lot unless attached to such building. (1973 Code, § 4-602)

20-203. Enclosure required. With respect to any portion of a swimming pool to which access may be obtained from outside a residence, building, or similar structure, there shall always be an enclosure of a permanent nature, not less than five (5) feet high, said enclosure to be so constructed as to prevent access by persons through such enclosure; and if any part of the enclosure be constructed to permit access through a gate or door or similar entranceway, said gate, door, or similar entranceway shall be provided with a means of locking the same to prevent access to the same extent as the remainder of the enclosure.

This provision for enclosure may include walls, fencing of a mesh type or of wood, or of screen wire or of any other material of like nature, but said enclosure shall not be constructed so as to provide foot-holds that would permit the enclosure easily to be climbed over.

All enclosures, regardless of type or construction, shall conform to the yard requirements established above. (1973 Code, § 4-603)

20-204. Construction on easements prohibited. Anything to the contrary notwithstanding, no swimming pool construction shall be permitted upon any public easement or easement reserved for utility purposes. (1973 Code, § 4-604)

CHAPTER 3

SPECIAL EVENTS

SECTION

- 20-301. Definitions.
- 20-302. Approval and regulation of special events.
- 20-303. Exemptions.
- 20-304. Vendors at special events.
- 20-305. Charitable solicitors at special events.
- 20-306. Approval required for distribution of beer.
- 20-307. Appeal.
- 20-308. Distribution of beer, limitations and offenses.
- 20-309. Distribution of intoxicating liquor prohibited.
- 20-310. No violation of § 11-101.

20-301. Definitions. (1) "Special event" shall mean any public gathering on city property or street(s) where

(a) Vendors may sell goods or services, or

(b) Charitable solicitors may engage in the solicitation of contributions or anything else of value.

(2) "Vendor" shall mean any person, organization or other entity engaged in the business of selling and/or delivering goods, wares, food, drinks, or merchandise at a special event within the City of Milan.

(3) "Charitable solicitor" shall mean any person, organization or other entity engaged in the solicitation of contributions or anything else of value for any charitable or religious purpose at a special event within the City of Milan.

(4) "Street" shall mean any publicly maintained street, road, highway, avenue, boulevard, parkway, lane or other way open to the public upon which motor vehicles or pedestrians may travel and shall include the entire width between boundary lines of every such way when any part thereof is open to use by the public for purposes of vehicular or pedestrian travel and passage.

(5) "City property" shall mean any real property in which the City of Milan has an ownership or possessory interest.

(6) "Beer" shall be defined as set forth in § 8-205 of the Milan Municipal Code.

(7) "Intoxicating liquor" shall be defined as set forth in § 8-101 of the Milan Municipal Code.

(8) "City board" shall mean the City of Milan Board of Mayor and Aldermen. (as added by Ord. #2017-1, March 2017 *Ch7_6-20-19*)

20-302. Approval and regulation of special events. (1) Any person, organization or other entity desiring to conduct a special event in the City of

Milan shall provide at least forty-five (45) days advance written notice to the mayor or his designee of the intent to conduct a special event.

(2) Upon receipt of the notice as required herein, the proposed special event shall be placed on the city board's agenda at its next regularly scheduled meeting following receipt of the notice and the sponsor of the proposed special event shall send a representative or representatives to the city board meeting to address any questions or issues concerning the proposed special event.

(3) The city board shall have plenary authority to regulate the date, time, duration, location and boundaries of any special event, and to impose other rules or restrictions for special events, including whether vendors and/or charitable solicitors shall be allowed at the special event. (as added by Ord. #2017-1, March 2017 *Ch7_6-20-19*)

20-303. Exemptions. Sections 20-302(2)(1) and 20-302(2)(2) of this chapter shall not apply to any special event sponsored by the City of Milan.

20-304. Vendors at special events. Any vendor desiring to operate at a special event shall be subject to title 9, chapter 2 of the Milan Municipal Code, except:

(1) Section 9-204(11) of the Milan Municipal Code shall not be applicable for vendors at special events;

(2) A permit issued to a vendor to operate at a special event shall not count toward the maximum number of transient vendor permits allowed pursuant to § 9-208 of the Milan Municipal Code;

(3) Sections 9-203 and 9-219 of the Milan Municipal Code shall not be applicable to food and/or drink vendors at special events. (as added by Ord. #2017-1, March 2017 *Ch7_6-20-19*)

20-305. Charitable solicitors at special events. Any charitable solicitor desiring to solicit contributions or anything else of value at a special event shall be subject to title 9, chapter 3 of the Milan Municipal Code. (as added by Ord. #2017-1, March 2017 *Ch7_6-20-19*)

20-306. Approval required for distribution of beer. (1) In addition to the provisions of title 9, chapters 2 and 3 of the Milan Municipal Code, any vendor or charitable solicitor desiring to distribute beer at a special event shall provide at least forty-five (45) days advance written notice to the mayor or his designee of the intent to distribute beer at a special event.

(2) Upon receipt of the notice as required herein, the mayor or his designee may approve or deny the distribution of beer by any vendor or charitable solicitor at a special event, provided that any vendor or charitable solicitor approved to distribute beer at a special event

(a) Shall hold an on-premise or bona fide restaurant beer permit issued by the City of Milan; or

(ii) Shall hold a beer permit issued by any Tennessee municipality which, in the determination of the mayor or his designee, is sufficiently similar to the City of Milan's on-premise or bona fide restaurant beer permits. (as added by Ord. #2017-1, March 2017 *Ch7_6-20-19*)

20-307. Appeal. Any vendor or charitable solicitor aggrieved by the action of the mayor or his designee in the denial of approval to distribute beer at a special event shall have the right to appeal to the city board. Such appeal shall be taken by filing with the city recorder within three (3) business days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The city recorder shall add any such appeal to the agenda for the next regular meeting of the city board, or any such appeal may be addressed at a special called meeting scheduled pursuant to the charter. (as added by Ord. #2017-1, March 2017 *Ch7_6-20-19*)

20-308. Distribution of beer, limitations and offenses. (1) Any vendor or charitable solicitor approved to distribute beer at a special event pursuant to this chapter may distribute beer only during the time and within the boundaries of the special event as determined by the city board.

(2) It shall be unlawful for any vendor or charitable solicitor approved to distribute beer at a special event except pursuant to this chapter. It shall be unlawful for any vendor or charitable solicitor to distribute beer at a special event in violation of any date, time, duration, location, boundary or other rule or restriction approved by the city board. It shall be the responsibility of any vendor or charitable solicitor operating or otherwise participating in a special event to comply with the provisions of this chapter and any rules or restrictions approved by the city board.

(3) It shall be unlawful for any person, organization or other entity to distribute beer at a special event in any container other than a temporary disposable cup. (as added by Ord. #2017-1, March 2017 *Ch7_6-20-19*)

20-309. Distribution of intoxicating liquor prohibited. Nothing in this chapter shall be deemed to allow the distribution of intoxicating liquor at a special event. (as added by Ord. #2017-1, March 2017 *Ch7_6-20-19*)

20-310. No violation of § 11-101. It shall not be a violation of § 11-101 of the Milan Municipal Code for a person to possess or consume beer purchased from a duly authorized vendor or charitable solicitor at a special event so long as such possession or consumption is within the date, time, duration, location, boundary or other rules or restrictions approved by the city board. (as added by Ord. #2017-1, March 2017 *Ch7_6-20-19*)

CHAPTER 4

TREE TRIMMING POLICY AND FEE**SECTION**

20-401. Definition.

20-402. Permit and business license required.

20-403. Permit requirements.

20-404. Trimmers shall be responsible for removal of debris.

20-405. Unlawful to leave debris in streets, alleys or on sidewalks.

20-406. Trimmers to be insured.

20-407. Violations.

20-401. Definition. "Tree trimmer." Shall include any person firm, corporation or partnership, whether as owner, agent or partner who is professionally engaged for hire in the business of trimming, cutting or removing trees within the City of Milan. (as added by Ord. #2020-2, March 2020 *Ch8_01-11-22*)

20-402. Permit and business license required. No tree trimmer shall engage in such business without a permit and city business license. (as added by Ord. #2020-2, March 2020 *Ch8_01-11-22*)

20-403. Permit requirements. (1) A permit shall be issued for each individual location. Said permit shall not have a duration of more than ten (10) days from issuance.

(2) A fee of twenty-five dollars (\$25.00) shall be collected for the issuance of each permit.

(3) The applicant for such permit shall submit to the city clerk a written affidavit of application containing the following information:

(a) Name of the applicant.

(b) Complete permanent business address and, if applicable, the residential.

(c) A government issued photo ID. (as added by Ord. #2020-2, March 2020 *Ch8_01-11-22*)

20-404. Trimmers shall be responsible for removal of debris. All tree trimmers shall be responsible for the removal of all debris resulting from their activities. (as added by Ord. #2020-2, March 2020 *Ch8_01-11-22*)

20-405. Unlawful to leave debris in streets, alleys or on sidewalks. It shall be unlawful for any tree trimmer to leave any debris along the right-of-way of public street, alley or sidewalk of the City of Milan. (as added by Ord. #2020-2, March 2020 *Ch8_01-11-22*)

20-406. Trimmers to be insured. All tree trimmers shall be insured for a minimum five hundred thousand dollars (\$500,000.00) to protect both personal injury and property. (as added by Ord. #2020-2, March 2020 *Ch8_01-11-22*)

20-407. Violations. A violation of this chapter is punishable by penalty of fifty dollars (\$50.00), to be paid by tree trimmer. Each day the debris is allowed to remain shall constitute a new and separate offense. (as added by Ord. #2020-2, March 2020 *Ch8_01-11-22*)

APPENDIX A

**PLAN OF OPERATION FOR THE
OCCUPATIONAL SAFETY AND HEALTH
PROGRAM PLAN
FOR THE EMPLOYEES OF
THE CITY OF MILAN**

(as added by Ord. #2013-8, Sept. 2013)

**PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY
AND HEALTH PROGRAM PLAN FOR THE EMPLOYEES
OF THE CITY OF MILAN**

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I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of the City of Milan.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The City of Milan Board of Mayor and Aldermen in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees:

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the state.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints

concerning conditions or practices which may be injurious to employees safety and health.

II. DEFINITIONS

For the purposes of this Program Plan, the following definitions apply:

- a. COMMISSIONER OF LABOR AND WORKFORCE DEVELOPMENT means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. EMPLOYER means the CITY OF MILAN and includes each administrative department, board, commission, division, or other agency of the City of Milan.
- c. SAFETY DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH or DIRECTOR means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of the City of Milan.
- d. INSPECTOR(S) means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.
- e. APPOINTING AUTHORITY means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.
- f. EMPLOYEE means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as volunteers, provides such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. PERSON means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. STANDARD means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee

Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

- i. IMMINENT DANGER means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. ESTABLISHMENT or WORKSITE means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. SERIOUS INJURY or HARM means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced); or
 - 2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- l. ACT or TOSH Act shall mean the Tennessee Occupational and Health Act of 1972.
- m. GOVERNING BODY means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. CHIEF EXECUTIVE OFFICER means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYERS RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from and unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this Program Plan are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this Program Plan.

IV. EMPLOYEES RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued

pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.

- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who

object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.

- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

- a. The Safety Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.
 - 1. The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
 - 2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
 - 3. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.
 - 4. The Safety Director may request qualified technical personnel from any department or section of the government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
 - 5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 - 6. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 - 7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.

8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 9. The Safety Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.
1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan.
 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.
 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. STANDARDS AUTHORIZED

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Regulations; and the Rules of Tennessee Department of Labor and Workforce

Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

VII. VARIANCE PROCEDURE

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported.
 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or

issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

1. The employer
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has an effective Program Plan for coming into compliance with the standard as quickly as possible.
 2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
 - e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
 - f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to www.osha.gov and click on Recordkeeping Forms located on the home page.

The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of Tennessee Department

of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORD-KEEPING AND REPORTING, CHAPTER 0800-01-03, as authorized by T.C.A., Title 50.

IX EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Director of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and actions taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any

complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.

- f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING

- a. Safety Director and/or Compliance Inspector(s):

1. Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

- b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.

3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
 - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - iii. The immediate supervisor of any employee who must perform work in a dangerous or potentially dangerous areas shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and

healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this Ordinance, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer; and
 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with/or to accompany the Safety Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.

2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
 2. Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.
- i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 1. The Safety Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor

or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
5. The imminent danger shall be deemed abated if:
 - a. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - b. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.

b. Refusal to Abate

1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and Chief Executive Officer immediately.
2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS

- a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:
 1. Issue an abatement order to the head of the worksite.
 2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

- b. Abatement orders shall contain the following information:
 - 1. The standard, rule, or regulation which was found to be violated.
 - 2. A description of the nature and location of the violation.
 - 3. A description of what is required to abate or correct the violation.
 - 4. A reasonable period of time during which the violation must be abated or corrected.

- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 - 1. Oral reprimand.
 - 2. Written reprimand.
 - 3. Suspension for three (3) or more working days.
 - 4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such

information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A, Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tennessee Code Annotated § 50-3-409 can file a complaint with their agency or Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

- a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this Program Plan.
- b. Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

Signature: Safety Director, Occupational Safety and Health and Date

Appendix 1 - Work Locations

City of Milan Organizational Chart

City of Milan Court - 2 Employees
City of Milan Public Safety Building
7029 Telecom Dr.
Milan, TN 38358
731-686-0985

City of Milan Finance Office - 3 Employees
1061 South Main St.
Milan, Tennessee 38358
731-686-3301

City of Milan Custodian - 1 Employee
1061 South Main St.
Milan, Tennessee 38358
731-686-3301

City of Milan Police Department - 28 Employees
7029 Telecom Dr.
Milan, Tennessee 38358
731-686-3309

City of Milan Fire Department - 22 Employees
7029 Telecom Dr.
Milan, Tennessee 38358

City of Milan Building and Codes - 2 Employees
1061 South Main St.
Milan, Tennessee 38358
731-686-0774

City of Milan Public Works - 17 Employees
2041 College St.
Milan, Tennessee 38358
731-686-1611

City of Milan Parks and Recreation - 3 Employees
7001 Ellington Drive
Milan, Tennessee 38358
731-686-7914

City of Milan Library- 5 Employees

1075 East Vanhook St.

Milan, Tennessee 38358

731-686-8268

City of Milan Senior Citizens Center - 2 Employees

1075B East Vanhook St.

Milan, Tennessee 38358

731-686-0851

City of Milan Board of Alderman - 8 Members

1061 South Main St.

Milan, Tennessee 38358

731-686-3301

Mayor of the City of Milan - 1 Member

1061 South Main St.

Milan, Tennessee 38358

731-686-3301

City of Milan Public Utilities - 40 Employees

1085 South Second St.

Milan, Tennessee 38358

731-686-1537

Total number of Employees for the City of Milan 134 Employees

APPENDIX – II NOTICE TO ALL EMPLOYEES

NOTICE TO ALL EMPLOYEES OF THE CITY OF MILAN

The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Program Plan which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Director.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this Program Plan.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such

violation occurs, have an opportunity to appear in a hearing before the City Recorder for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of the City of Milan is available for inspection by any employee at the Milan City Hall during regular office hours.

Appendix III - Program Plan Budget

Statement of Financial Resource Availability

Be assured that the City of Milan has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan, and to comply with standards set forth herein this Ordinance.

Appendix IV--Accident Reporting Procedures

Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but no later than two hours after the occurrence. The Supervisor will provide the Safety Director and/or Record Keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone or written statement as soon as possible. This shall be done no later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness.

All fatalities or accidents involving hospitalization of three (3) or more employees shall be reported to the Safety Director and/or Record Keeper immediately after the occurrence of the event by either telephone or verbally, and will be followed up by a written report within four (4) hours after the occurrence of the incident. The Supervisor will then perform a thorough investigation of the accident or the illness (with the assistance from the Safety Director). Following the investigation of the incident a complete written report will be submitted to the Safety Director within Seventy Two (72) hours after the accident or illness was first reported. One (1) copy will be submitted to the Record Keeper to be kept on file.

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident Location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, Social Security Number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. The title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail, and to what part(s) of the body was affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date the report was completed.

ORDINANCE NO. _____

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF MILAN TENNESSEE.

WHEREAS some of the ordinances of the City of Milan are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the City of Milan, 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 "Milan Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MILAN, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Milan 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 budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any

specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than 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."¹

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

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

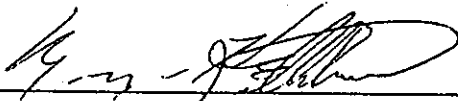
Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, FEBRUARY 9, 1999.

Passed 2nd reading, MARCH 9, 1999.



Mayor



Recorder