

**THE  
MILLINGTON  
MUNICIPAL  
CODE**

Prepared by the

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

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

June 1998

*Change 17*  
*January 9, 2023*

**CITY OF MILLINGTON, TENNESSEE**

**MAYOR**

Terry G. Jones

**ALDERMEN**

Al Bell  
Mike Caruthers  
Larry Dagen  
Chris Ford  
Bethany Huffman  
Don Lowry  
Thomas McGhee

**CITY CLERK**

Karen Findley

## PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if

justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Sandy Selvage, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Tracy Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini  
Codification Specialist

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

Sec. 11.03. ...Each ordinance, before being adopted, shall be read at three meetings not less than one week apart, and shall take effect ten days after its adoption, except that, where an emergency exists and the public safety and welfare require it, an ordinance containing a full statement of the facts and reasons for the emergency may be made effective upon its adoption if approved by at least four members of the Board on three readings on successive days. No ordinance relating to a franchise, exclusive contract, or other special privilege shall be passed as an emergency ordinance. Amendments of ordinances and resolutions or parts thereof shall be accomplished only by setting forth the complete section, sections, subsection, or sub-sections in their amended form. A code may be adopted by an ordinance which contains only a reference to its title, date and issuing organization, and the city clerk shall file a copy of the code in his office. The city shall furnish a copy of any such code to any person for a reasonable fee. After adoption of the code of ordinances, as provided in Section 11.04 of this Charter, the city clerk shall number ordinances consecutively in the order of their final adoption and shall copy them into a permanent record book used solely for this purpose, and the city clerk shall do likewise for resolutions, using a separate series of numbers and a separate records book. The original copies of all ordinances, resolutions and motions shall be filed and preserved by the city clerk. An abstract of the essential provisions of each ordinance may be published once in the official city newspaper within ten days after its adoption, except that only the title shall be so published of a code adopted by reference as provided in this section.

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## TITLE 1

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

#### CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. CITY CLERK.
4. CITY MANAGER.
5. MILLINGTON SCHOOL BOARD.

#### CHAPTER 1

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

#### SECTION

- 1-101. Time of regular board meetings.
- 1-102. General rules of order.
- 1-103. Adoption of ordinances and amendments to city code.
- 1-104. Board-city manager relationship.

**1-101. Time of regular board meetings.** (1) Date and time of regular board meetings. Regular meetings of the board of mayor and aldermen shall be the second Monday in every month, at 6:00 P.M. If the second Monday of a month falls on a day observed by the city as a legal holiday, then the regular meeting of the board for that month shall be held on the first day thereafter that is not observed as a legal holiday.

(2) Place of regular meetings. Regular meetings of the board shall be held at city hall, except that upon public notice published in a newspaper of general circulation in the city not less than two (2) weeks prior to the date of a regular meeting and otherwise given in accordance with the city's normal

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

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

#### Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

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

Board as legislative body, etc.: § 7.01.

Compensation, meetings of board, etc.: § 10.01.

procedure for giving notice of regular meetings, regular meetings of the board may be held at another location in the city.

(3) Adjournment for lack of quorum. Any regular meeting at which a quorum is not present may be adjourned by announcement at such meeting to a stated time, date and place, provided that notice of the time, date and place of the adjourned meeting shall be given in the same manner as notice of such meetings is regularly given and shall be published in a newspaper of general circulation in the City of Millington. (1981 Code, § 1-101, as replaced by Ord. #2005-2, April 2005, amended by Ord. #2009-13, June 2009, and Ord. #2013-20, Nov. 2013, and replaced by Ord. #2017-7-, June 2017)

**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. (1981 Code, § 1-102, modified, as replaced by Ord. #2017-7, June 2017)

**1-103. Adoption of ordinances and amendments to city code.** Adoption of an ordinance shall be required for all matters required by state law, including setting of budgets and the property tax rate and adoption of any amendment to the city code. Prior to adoption on second reading of an ordinance, a public hearing shall be held by the board. Ordinances shall be passed on two (2) different days at a regular, adjourned or called meeting of the board. Ordinances shall be effective upon their final passage unless by its terms the effective date is deferred. (as added by Ord. #2017-7, June 2017, as replaced by Ord. #2019-20, Nov. 2019 *Ch16\_6-29-20*)

**1-104. Board-city manager relationship.** The city manager shall be responsible to the board for the administration of all units of city government under the city manager's jurisdiction and for carrying out policies adopted by the board. Except for the purposes of inquiry, the board shall deal with the administrative officers and employees solely through the city manager. The board shall not give orders to the city manager's subordinates or otherwise interfere with managerial functions through such means as directing or requesting the appointment or removal of any of the city manager's subordinates, or the making of particular purchases from, or contracts with any specific organization. (as added by Ord. #2017-7, June 2017)

## CHAPTER 2

### MAYOR<sup>1</sup>

#### SECTION

- 1-201. Duties of the mayor.
- 1-202. Execute city's contracts.
- 1-203--1-204. Deleted.

**1-201. Duties of the mayor.** The mayor shall be the executive head of the city, responsible for the efficient and orderly administration of the affairs of the city and the enforcement of the ordinances of the city and the laws of the state within the city limits. The mayor shall have such powers and duties as are specified in the charter, as may be provided by ordinance not inconsistent with the charter and as are otherwise provided by law. It shall be the duty of the mayor to preside at all meetings of the board. The mayor shall make appointments to boards or commissions as authorized by state statute or ordinance. The mayor is hereby authorized to vote on any item before the board in the event of a tie vote of the members of the board in attendance. If the mayor disapproves any part or all of an ordinance or resolution, the mayor shall file this disapproval with the city clerk and shall deliver copies to the board with a written explanation for the disapproval. (1981 Code, § 1-201, as replaced by Ord. #2017-7, June 2017)

**1-202. Execute city's contracts.** The mayor shall execute contracts as authorized by the board of mayor and aldermen. (1981 Code, § 1-202, as replaced by Ord. #2017-7, June 2017)

**1-203.--1-204. Deleted.** (as deleted by Ord. #2017-7, June 2017)

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<sup>1</sup>Charter references

Mayor's general powers and duties: § 10.02.

## CHAPTER 3

### CITY CLERK<sup>1</sup>

#### SECTION

1-301. Shall be bonded.

1-302. Shall keep minutes.

1-303. Shall be custodian of public records, bonds etc.

1-304. Shall provide and certify copies of records, papers, etc.

**1-301. Shall be bonded.** The city clerk will be bonded in the sum of fifty thousand dollars (\$50,000.00) before assuming the duties of said office. Bond may be an individual bond or blanket bond for city employees. (1981 Code, § 1-301, as replaced by Ord. #2017-7, June 2017)

**1-302. Shall keep minutes.** It shall be the duty of the city clerk to be present at all meetings of the board of mayor and aldermen, the planning commission and the board of zoning appeals and to prepare and maintain a full and accurate record of all business transacted by the same. (1981 Code, § 1-303, as replaced by Ord. #2017-7, June 2017)

**1-303. Shall be custodian of public records, bonds etc.** The city clerk shall have custody of and preserve in the city clerk's' office the city seal, the public records, ordinance books, minutes of the board, contracts, bonds, titles, deeds, certificates and papers, all official indemnity or security bonds, and all other bonds, oaths, and affirmations, and all other records, papers and documents not required by the charter or by ordinance to be deposited elsewhere. (as added by Ord. #2017-7, June 2017)

**1-304. Shall provide and certify copies of records, papers, etc.** The city clerk shall provide and, when required, certify copies of records, papers and documents in the city clerk's office. (as added by Ord. #2017-7, June 2017)

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<sup>1</sup>Charter reference

Election of city clerk and treasurer; duties: § 6.

## CHAPTER 4

### CITY MANAGER

#### SECTION

1-401. Duties of the city manager.

1-402. Issue purchase orders and execute contracts.

1-403.–1-411. Deleted.

**1-401. Duties of the city manager.** The city manager shall be directly responsible to the mayor and the board to exercise general administrative responsibilities assigned to him for the coordination and direction of the activities of the operating departments, including, but not limited to, preparation of official agenda for all meetings, preparation and administration of annual operating and capital improvement budgets, preparation of reports for the mayor and board, purchasing, investigation of citizens' complaints, application for grants and administration thereof, administration of personnel policies, including the selection and discipline of personnel. The city manager shall perform such other duties as may be described by ordinance. The city manager shall also maintain all necessary intergovernmental relationships and attend all meetings of the board. (as added by Ord. #2007-2, June 2007, and replaced by Ord. #2017-7, June 2017)

**1-402. Issue purchase orders and execute contracts.** The city manager, or an employee designated by him, shall act as city purchasing agent. The purchasing agent shall make all purchases and contracts for all departments and agencies of the city. The city manager may execute contracts as required for purchases or as authorized by the board of mayor and aldermen. (as added by Ord. #2007-2, June 2007, and replaced by Ord. #2017-7, June 2017)

**1-403.–1-411. Deleted.** (as deleted by Ord. #2017-7, June 2017)

**CHAPTER 5****MILLINGTON SCHOOL BOARD****SECTION**

- 1-501. Creation.
- 1-502. Members.
- 1-503. Eligibility.
- 1-504. Nonpartisan election.
- 1-505. Non-eligibility.
- 1-506. Terms.
- 1-507. Re-election.
- 1-508. Vacancies in office.
- 1-509. Taking office.
- 1-510. Compensation.
- 1-511. Special election.
- 1-512. Date of special election.
- 1-513. Alternate date of special election.

**1-501. Creation.** A municipal school board for the City of Millington shall be established in compliance with applicable state law. (as added by Ord. #2012-11, May 2012, and replaced by Ord. #2013-17, Aug. 2013)

**1-502. Members.** The municipal school board for the City of Millington shall consist of seven (7) members to be elected from the municipality at large for positions one (1) through seven (7). (as added by Ord. #2012-11, May 2012, and replaced by Ord. #2013-17, Aug. 2013)

**1-503. Eligibility.** In order to be eligible to be a member of the municipal school board for the City of Millington, one must be a citizen of the State of Tennessee, have achieved a high school diploma or GED and filed documentation satisfactory to the Shelby County Election Commission evidencing same, have attained the age of eighteen (18) years at the time of their election, be a resident and qualified voter of the City of Millington, resided within the municipality for at least one (1) year preceding the election, and otherwise meet all other requirements of applicable state law at the time one seeks election. (as added by Ord. #2012-11, May 2012, and replaced by Ord. #2013-17, Aug. 2013 and Ord. #2013-17, Aug. 2013)

**1-504. Nonpartisan election.** All elections for the municipal school board for the City of Millington shall be conducted on a non-partisan basis. (as added by Ord. #2012-11, May 2012, and replaced by Ord. #2013-17, Aug. 2013)

**1-505. Non-eligibility.** No member of the governing body of the City of Millington shall be eligible for election as a member of the municipal school board for the City of Millington. (as added by Ord. #2012-11, May 2012, and replaced by Ord. #2013-17, Aug. 2013)

**1-506. Terms.** The initial terms for members of the municipal school board for the City of Millington shall vary in length, provided that all subsequently elected members, other than members appointed to fill a vacancy shall be elected to four (4) year terms, with members elected to even numbered positions for an initial term of one (1) year and members elected to odd numbered positions for an initial term of three (3) years. as follows:

Position 1: Initial three (3) year term

Position 2: Initial one (1) year term

Position 3: Initial three (3) year term

Position 4: Initial one (1) year term

Position 5: Initial three (3) year term

Position 6: Initial one (1) year term

Position 7: Initial three (3) year term. (as added by Ord. #2012-11, May 2012, and replaced by Ord. #2013-17, Aug. 2013)

**1-507. Re-election.** Members of the municipal school board for the City of Millington may succeed themselves. (as added by Ord. #2013-17, Aug. 2013)

**1-508. Vacancies in office.** Vacancies occurring on the municipal school board for the City of Millington shall be filled by the board of mayor and aldermen by appointment of a person who would be eligible to serve as a member of the municipal school board, with such member to serve until a successor is elected and qualifies according to applicable law, the successor to be elected at the next general election for which candidates have sufficient time to qualify under applicable law. (as added by Ord. #2013-17, Aug. 2013)

**1-509. Taking office.** The initial municipal school board for the City of Millington shall take office on the first day of the first month following certification of the results of the election to select the members of the initial municipal board. (as added by Ord. #2013-17, Aug. 2013)

**1-510. Compensation.** Compensation for the chairperson of the municipal school board for the City of Millington shall be three thousand dollars (\$3,000.00) per annum and compensation for all other members of the municipal school board for the City of Millington shall be two thousand four hundred dollars (\$2,400.00) per annum. (as added by Ord. #2013-17, Aug. 2013)



**1-511. Special election.** A municipal special election to select the members of the initial municipal school board of the City of Millington shall be held on November 7, 2013, or on another appropriate date. (as added by Ord. #2013-17, Aug. 2013)

**1-512. Date of special election.** The City of Millington, in accordance with state law, shall file this ordinance with the Shelby County Election Commission with a request that the special election to select the members of the initial municipal school board of the City of Millington be held on November 7, 2013. (as added by Ord. #2013-17, Aug. 2013)

**1-513. Alternate date of special election.** If the Shelby County Election Commission cannot hold the special election to select the members of the initial municipal school board of the City of Millington on said November 7, 2013, the election shall be held on a date within the time prescribed by applicable state law. (as added by Ord. #2013-17, Aug. 2013)

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

1. CITY BEAUTIFUL COMMISSION.
2. [DELETED.]

**CHAPTER 1****CITY BEAUTIFUL COMMISSION****SECTION**

- 2-101. Appointment, organization, and tenure of commission.
- 2-102. Duties of commission.
- 2-103. Commission to file report with board.

**2-101. Appointment, organization, and tenure of commission.**

There is hereby created and established a city beautiful commission consisting of fifteen (15) members who shall be appointed by the board of aldermen on nomination by the mayor. The city beautiful commission, once appointed, shall elect one of its members as chairman and one of its members as secretary. The term of office of each member of such commission shall be for two (2) years. All of the members of the commission shall serve without pay. (1981 Code, § 1-1101)

**2-102. Duties of commission.** It shall be the duty of the commission to study, investigate, develop, and carry out plans for improving the health, sanitation, safety, and cleanliness of the city by beautifying the streets, highways, alleys, bayous, creeks, lots, yards, and other similar places in the city; to aid in the prevention of fires, diseases, and other casualties by the removal and elimination of trash and other debris from the streets, highways, alleys, lots, yards, and other similar places; to encourage the placing, planting, and preservation of trees, flowers, plants, shrubbery, and other objects of ornamentation in the city; to protect song birds and other wild fowl; to advise with and recommend plans to other agencies of the city for the beautification of the city; and otherwise promote public interest in the general improvement of the appearance of the city; provided, however, that nothing herein shall be construed to abridge or change the powers, duties, and responsibilities of the board of mayor and aldermen, or any governmental department or division now existing. (1981 Code, § 1-1102)

**2-103. Commission to file report with board.** It shall be the further duty of the city beautiful commission on the first Monday in July and the first Monday in January of each year to file with the board of mayor and aldermen

of the city a written report of the work performed and the results accomplished during the preceding period. (1981 Code, § 1-1103)

**CHAPTER 2**

**[DELETED]**

(as deleted by Ord. #2012-9, May 2012)

**TITLE 3****MUNICIPAL COURT<sup>1</sup>****CHAPTER**

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

**CHAPTER 1****CITY COURT****SECTION**

- 3-101. City court created.  
3-102. Severability.  
3-103.--3-113. Deleted.

**3-101. City court created.** There shall be a municipal court operating within the corporate limits of the City of Millington as they are now described or may hereafter be changed. (1981 Code, § 1-503, as replaced by Ord. #2017-8, June 2017)

**3-102. Severability.** If any provision of title 3, Municipal Court, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of title 3 which can be given effect without the invalid provision or application, and to that end the provisions of title 3 are declared to be severable. (1981 Code, § 1-504, as replaced by Ord. #2006-1, May 2006, and Ord. #2017-8, June 2017)

**3-103.--3-313. Deleted.** (as deleted by Ord. #2017-8, June 2017)

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<sup>1</sup>Charter reference  
City judge: § 12.05.

## CHAPTER 2

### CITY JUDGE

#### SECTION

- 3-201. City judge.
- 3-202. Qualifications.
- 3-203. Election/term of office.
- 3-204. Vacancies in office.
- 3-205. Special judges.
- 3-206. Compensation.
- 3-207. Jurisdiction and powers.
- 3-208. Bail.
- 3-209. Separation of powers.
- 3-210. Practice of law.
- 3-211.--3-217. Deleted.

**3-201. City judge.** There is hereby created the office of City of Millington City Judge, who shall be vested with all the powers and duties granted under law in Tennessee. (1981 Code, § 1-501, as replaced by Ord. #2017-8, June 2017)

**3-202. Qualifications.** All candidates for the position of judge of the Millington Municipal Court shall be thirty (30) years of age or older, a resident of the State of Tennessee for not less than five (5) years immediately prior to the election, a resident of the city for at least one (1) year immediately prior to the election, and shall be licensed to practice law in the State of Tennessee. (1981 Code, § 1-502, as replaced by Ord. #2017-8, June 2017)

**3-203. Election/term of office.** The city judge of the Millington Municipal Court shall be elected by a popular vote of the registered voters of the City of Millington. The term of office of the municipal judge shall be eight (8) years, except for any initial term which may be shorter. Upon the effective date of this section, the board of mayor and aldermen may appoint a qualified person to serve as municipal judge until the next regular August general state election. The first municipal judge popularly elected pursuant to this section shall be elected at the next regular August general state election that takes place at least thirty (30) days after the effective date of this section calling for the judge's election. The person elected at this election shall serve only until the next regular judicial election held in accordance with article 7, section 5 of the Tennessee Constitution. All subsequent elections for municipal judge pursuant to this section shall be held in accordance with article 7, section 5 of the Tennessee Constitution. (1981 Code, § 1-508, as replaced by Ord. #2017-8, June 2017)

**3-204. Vacancies in office.** In the absence of a judge of the Millington Municipal Court due to resignation, death or disability, the board of mayor and aldermen may appoint a qualified person to serve until the next regular November general election. At this election, a person shall be elected to serve any unexpired term if the full term is not to be filled at the election. In the temporary absence or inability of the city judge, the board of mayor and aldermen may appoint a qualified person to serve until the judge's return.

No elected judge of the City of Millington may hold office while under indictment. Vacancies in such case shall be filled as provided in this section. In the event the charges against the city judge are disposed of in his favor, then the city judge shall be forthwith returned to office and shall receive full compensation for the time that he was removed therefrom. (1981 Code, § 1-511, modified, as replaced by Ord. #2017-8, June 2017)

**3-205. Special judges.** (1) General sessions docket. In the event that the city judge shall be unable to sit for good cause, including but not limited to, by reason of health, schedule, vacation or other reasons, a special judge shall be chosen to temporarily serve in his or her absence or temporary unavailability as provided by Tennessee Code Annotated, § 16-15-209.

(2) Municipal docket. In the event that the city judge shall be unable to sit for good cause, including but not limited to, by reason of health, schedule, vacation or other reasons, a special judge, who is qualified under § 3-202 of this chapter, or a special judge, who is appointed pursuant to subsections (2)(a) through (c) of this section, shall temporarily serve in such judge's absence or temporary unavailability:

(a) The city judge or, if the city judge is not able, the clerk of court shall appoint a special judge to hold court, preside and adjudicate in the absence of a municipal judge;

(b) A special judge must possess all of the qualifications of a municipal judge of the Millington Municipal Court; and

(c) A list of eligible special judges shall be created by the city judge. Such list shall designate potential special judges in order of priority and shall be maintained by the clerk of the court. When necessary, a special judge shall be chosen from such list based upon the order of priority in which they are listed. (1981 Code, § 1-513, as replaced by Ord. #2017-8, June 2017)

**3-206. Compensation.** The city judge shall receive compensation as fixed by the board of mayor and aldermen by ordinance. Such compensation shall be set prior to the date on which the election for the position of municipal judge is held and shall not be increased nor diminished during the term. (1981 Code, § 1-514, modified, as replaced by Ord. #2017-8, June 2017)

**3-207. Jurisdiction and powers.** The jurisdiction of the city judge shall extend to the trial of all offenses against the ordinances of the city and concurrently with the general sessions court for violation of the criminal laws of the state within the corporate limits of the city. Costs in trials of offenses against the ordinances of the city shall be provided by ordinance. Costs in other matters shall be as established under the general law of the state. The city judge shall have the power to levy fines, penalties and costs, to issue all necessary process, to administer oaths, and to maintain order, including the power to punish for contempt by fine or confinement not exceeding the limits provided by general law. (1981 Code, § 1-518, as replaced by Ord. #2017-8, June 2017)

**3-208. Bail.** The bail of persons arrested and awaiting trials and persons appealing the decision of the city judge shall be fixed by the city judge and upon such security as in the judge's discretion he or she deems necessary or as otherwise may be provided by ordinances or general law. (1981 Code, § 1-520, as replaced by Ord. #2017-8, June 2017)

**3-209. Separation of powers.** The city judge shall be the exclusive judge of the law and facts in every case before him or her, and no official or employee of the city shall attempt to influence his or her decision except through pertinent facts presented in court. (1981 Code, § 1-521, as replaced by Ord. #2017-8, June 2017)

**3-210. Practice of law.** The city judge shall give such necessary time and attention to the duties of his office so as to efficiently and orderly perform the duties of the office. He may be permitted to engage in the practice of law, or in any other business or profession not conflicting with the performance of his duties as judge. (1981 Code, § 1-527, as replaced by Ord. #2017-8, June 2017)

**3-211.--3-217. Deleted.** (as deleted by Ord. #2017-8, June 2017)



## CHAPTER 3

### CITY COURT CLERK

#### SECTION

3-301. City court clerk.

3-302. Oath.

3-303. Bond.

3-304. Duties.

3-305.--3-306. Deleted.

**3-301. City court clerk.** The city court clerk shall be selected by the city manager in accordance with city charter and city personnel policies. (1981 Code, § 1-517, as replaced by Ord. #2017-8, June 2017)

**3-302. Oath.** The city court clerk shall take the oath of office prescribed for clerks of court by state law. (1981 Code, § 1-522, as replaced by Ord. #2008-2, June 2008, and Ord. #2017-8, June 2017)

**3-303. Bond.** Before assuming the duties of the office, said clerk shall give bond in the sum of twenty-five thousand dollars (\$25,000.00), conditioned to faithfully discharge the duties of such office as such clerk, and properly report and account for all funds coming through his or her hands into his or her office. The bond of the clerk of the municipal court shall be filed with the clerk of the City of Millington. (1981 Code, § 1-523, modified, as replaced by Ord. #2008-2, June 2008, and Ord. #2017-8, June 2017)

**3-304. Duties.** The city court clerk shall be the custodian of the books, dockets and records of the municipal court and shall perform such duties as may be delegated to him or her by the city manager or the city judge, including but not limited to the maintenance of books and records pertaining to the issuance of warrants of arrests, the disposition of cases coming before the court, the collection of fines and costs, preparation of orders, preparation of reports, and such duties as are set forth in § 16-18-310 of the Tennessee Code Annotated. (1981 Code, § 1-531, as replaced by Ord. #2017-8, June 2017)

**3-305.--3-306. Deleted.** (as deleted by Ord. #2017-8, June 2017)

## CHAPTER 4

### COURT ADMINISTRATION

#### SECTION

- 3-401. Maintenance of docket.
- 3-402. Court costs; imposition of fines, penalties and costs.
- 3-403. Disposition and reports of fines, penalties and costs.
- 3-404. Disturbance of proceedings.
- 3-405. Failure to appear.
- 3-406. Use of collection agency.

**3-401. Maintenance of docket.** The city clerk shall keep, or cause to be kept, a complete docket of all matters coming before the court. The docket shall include for each defendant such information as name; alleged offense; disposition; fines and costs imposed; and all other information that may be relevant. (1981 Code, § 1-516, as replaced by Ord. #2017-8, June 2017)

**3-402. Court costs; imposition of fines, penalties and costs.**

(1) City of Millington court costs for violations of city ordinances will be seventy-six dollars (\$76.00), and the maximum permissible fee under state law for state statutory violations, together with the appropriate state litigation tax and the appropriate city litigation tax. One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks. All fines, penalties and costs shall be imposed and recorded by the city judge or the city court clerk on the municipal court docket. In all cases where a defendant pleads guilty or is tried and found guilty by the court, the municipal judge shall tax in the bill of costs the amount of seventy-six dollars (\$76.00), the amount determined by the board of mayor and aldermen to be reasonably necessary for operating costs of the municipal court. Said court costs may be waived at the discretion of the municipal judge.

(2) A fee of five dollars \$5.00 shall be collected on each citation for violation of any traffic ordinance that results in a plea of guilty or nolo contendere or a judgment of guilty, for the purpose of funding the development and operation of an electronic citation system for the Millington Police Department. One dollar (\$1.00) of such fee shall be retained by the city court clerk and used for computer hardware purchases, usual and necessary computer related expenses, or replacement. (1981 Code, § 1-532, as replaced by Ord. #2017-8, June 2017)

**3-403. Disposition and reports of fines, penalties and costs.** All funds coming into the hands of the municipal court in the form of fines,

penalties, costs and forfeitures shall be recorded by the municipal court clerk and paid over to the municipality. At the end of each month, the city court clerk shall submit to the city finance director and city manager a report accounting for the collection or non-collection of all fines, penalties and costs imposed by the municipal court during the current month and to date for the current fiscal year. (1981 Code, § 1-533, as replaced by Ord. #2017-8, June 2017)

**3-404. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the municipal court by making loud or unusual noises; by using indecorous, profane or blasphemous language; or by any distracting conduct whatsoever. (as added by Ord. #2017-8, June 2017)

**3-405. Failure to appear.** Any person who fails to appear in municipal court to answer a summons or citation for the violation of any ordinance or provision of this code shall be guilty of a criminal offense punishable under the general penalty provision of this code. (as added by Ord. #2017-8, June 2017)

**3-406. Use of collection agency.** (1) As provided in Tennessee Code Annotated, § 40-24-105(d), the city is authorized to contract with one (1) or more collection agencies to collect delinquent city court fines, costs and litigation taxes that have not been collected within sixty (60) days after they were due.

(2) Any contract between the city and a collection agency must be in writing and shall provide for collection of the collection agency's services fee in addition to amounts owed to the city. (as added by Ord. #2017-8, June 2017)

## CHAPTER 5

### WARRANTS, SUMMONSES AND SUBPOENAS

#### SECTION

3-501. Issuance of arrest warrants.

3-502. Issuance of summonses.

3-503. Issuance of subpoenas.

3-504.--3-505. Deleted.

**3-501. Issuance of arrest warrants.** The city judge/city court clerk shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances or violating the criminal laws of the state within the corporate limits of the city. (1981 Code, § 1-524, as replaced by Ord. #2017-8, June 2017)

**3-502. Issuance of summonses.** When a complaint of an alleged ordinance or state criminal law violation is made, the city judge may, in his or her discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the municipal court at a time specified therein to answer the charges against him or her. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinances or criminal laws alleged to have been violated. Upon failure of any person to appear before the municipal court as commanded in a summons lawfully served on him or her, the cause may be proceeded with ex-parte, and the judgment of the courts shall be valid and binding subject to the defendant's right to appeal. (1981 Code, § 1-525, as replaced by Ord. #2017-8, June 2017)

**3-503. Issuance of subpoenas.** The city judge/city court clerk may subpoena as witnesses all persons whose testimony he or she believes will be relevant and material to matters coming before his or her court, and it shall be unlawful for any person lawfully served with such subpoena to fail or neglect to comply therewith. (1981 Code, § 1-526, as replaced by Ord. #2017-8, June 2017)

**3-504.--3-505. Deleted.** (as deleted by Ord. #2017-8, June 2017)

## CHAPTER 6

### BONDS AND APPEALS

#### SECTION

3-601. Bond amounts, conditions, and forms.

3-602. Appeals.

**3-601. Bond amounts, conditions, and forms.** (1) Appearance bond. An appearance bond in any case before the municipal court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for proceedings before the municipal court at the stated time and place.

(2) Appeal bond. An appeal bond shall be two hundred and fifty dollars (\$250.00), and shall be conditioned such 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 or her sureties.

(3) Form of bond. An appearance or appeal bond in any case may be made in the form of a cash deposit or by a corporate surety company authorized to do business in Tennessee. No other type bond shall be acceptable.

(4) Pauper's oath. A bond is not required provided the defendant/appellant files an oath of poverty and an accompanying affidavit of indigency as allowed in the state law. (as added by Ord. #2017-8, June 2017)

**3-602. Appeals.** Any defendant who is dissatisfied with any judgment of the municipal court against him or her may, within ten (10) days after such judgment is rendered, appeal to the circuit court, upon posting a proper appeal bond and payment of all fines and cost; provided, however, that any judgment of the municipal court in favor of the city for ten dollars (\$10.00) or less shall be final. (as added by Ord. #2017-8, June 2017)

## TITLE 4

### MUNICIPAL PERSONNEL

#### CHAPTER

1. MUNICIPAL PERSONNEL.
2. [DELETED].
3. [DELETED].

#### CHAPTER 1

### MUNICIPAL PERSONNEL

#### SECTION

- 4-101. Purpose.
- 4-102. Coverage.
- 4-103. Administration.
- 4-104. Personnel rules and regulations.
- 4-105. Records.
- 4-106. Discrimination.
- 4-107. Expenses of municipal officers and employees.
- 4-108. Deleted.

**4-101. Purpose.** The purpose of this chapter is to establish a system of personnel administration in the City of Millington that is based on merit and fitness. The system shall provide a means to select, develop, and maintain an effective municipal work force through impartially applying personnel policies and procedures free of personal and political considerations and regardless of race, color, gender, age, creed, national origin, or disability. (as replaced by Ord. #2017-9, June 2017)

**4-102. Coverage.** City employees include all officials elected to offices established by the city as well as all individuals recognized as employees for payroll tax purposes by the city or by the city's school district. Section 4-103 and following of this title shall not apply to employees of the city's school district, which are covered by separate policies established by the board of education. (as replaced by Ord. #2017-9, June 2017)

**4-103. Administration.** The personnel system shall be administered by the city manager, who shall have the following duties and responsibilities:

- (1) Have the final authority in the selection, discipline, dismissal and all other personnel matters in relation to city employees, subject to approval by the board of mayor and aldermen for hiring or terminating department heads.

(2) Exercise leadership in developing an effective personnel administration system subject to provisions in this chapter, other ordinances, the city charter, and federal and state laws relating to personnel administration;

(3) Recommend to the board of mayor and aldermen a position classification plan and install and maintain such a plan upon approval by the board of mayor and aldermen;

(4) Recommend to the board of mayor and aldermen a compensation plan for all city employees and install and maintain such a plan upon approval by the board of mayor and aldermen;

(5) Fix and establish the number of employees in the various city departments and offices and determine the duties, authority, responsibility, and compensation in accordance with the policies established by the board of mayor and aldermen and budget limitations; and

(6) Foster and develop programs for improving employee effectiveness, including training, safety, and health. (as replaced by Ord. #2017-9, June 2017)

**4-104. Personnel rules and regulations.** The city manager shall develop rules and regulations, in the form of a personnel policy manual and a compensation plan policy necessary for effectively administering the personnel system. The board of mayor and aldermen shall by resolution adopt or amend these policies presented to them by the city manager.

Nothing in the personnel policies shall be deemed to give employees any more property rights in their job than may already be given by state law. The city reserves the right to alter or change any or all of these policies without prior notice to employees. (as replaced by Ord. #2017-9, June 2017)

**4-105. Records.** The city manager shall maintain adequate records of the employment record of every employee as specified herein. (as replaced by Ord. #2017-9, June 2017)

**4-106. Discrimination.** No person shall be employed, promoted, demoted, discharged, or in any way favored or discriminated against because of political opinions or affiliations, race, color, creed, national origin, gender, age, religious belief, or disability. (as replaced by Ord. #2017-9, June 2017)

**4-107. Expenses of municipal officers and employees.** The city may pay the expenses, including travel and training, of any elected official, any elected or appointed board or committee member, any city official and any employee as permitted by Tennessee Code Annotated, § 6-54-901. The city manager shall develop rules and regulations, in the form of travel policy and procedures. The board of mayor and aldermen shall by resolution adopt or amend these policies presented to them by the city manager. (as replaced by Ord. #2017-9, June 2017)

**4-108. Deleted.** (as deleted by Ord. #2017-9, June 2017)

**CHAPTER 2**

(This chapter was deleted by Ord. #2017-9, June 2017)



### **CHAPTER 3**

(This chapter was deleted by Ord. #2013-19, Oct. 2013)

## TITLE 5

### MUNICIPAL FINANCE AND TAXATION<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. COLLECTION OF DELINQUENT TAXES.
6. PURCHASING POLICY.
7. HOTEL OR MOTEL TAX.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 5-101. Fiscal year.
- 5-102. Official depositories for city funds.
- 5-103. Service charge for bad checks.
- 5-104. Service charge for failure of automatic payments.

**5-101. Fiscal year.** The fiscal year is hereby fixed to begin on the 1st day of July and end on the 30th day of June of each year. (1981 Code, § 6-701)

**5-102. Official depositories for city funds.** Trustmark National Bank, BankCorpSouth, Munford Union Bank of Millington, Insouth Bank, Patriot Bank and First Tennessee Bank N.A. are hereby designated as official depositories for city funds. (1981 Code, § 6-702, as amended by Ord. #2001-12, July 2001, and Ord. #2001-15, Sept. 2001, and replaced by Ord. #2003-3, April 2003)

**5-103. Service charge for bad checks.** All collecting agents for the city water department and general city government, including the city court clerk, are hereby authorized to assess and collect a service charge for every check that is returned for non-payment because of insufficient funds in the drawer's account or for any other legitimate reason that payment in good funds is not made. The amount of such service charge shall be as follows:

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<sup>1</sup>Charter references

Fiscal year: § 13.01.

Official depository: § 13.15.

(1) For each payment due to the city in the amount of two thousand dollars (\$2,000.00) or less, the service charge shall be twenty dollars (\$20.00).

(2) For each payment due to the city in amounts in excess of two thousand dollars (\$2,000.00), the service charge shall be one percent (1%) of the amount of such.

(3) This service charge applies to all checks paid to any arm or division of city government, including but not limited to payments for taxes, fees, permits and checks to city court. (1981 Code, § 6-703, as replaced by Ord. #1999-14, § 1, Sept. 1999, and Ord. #2012-8, May 2012)

**5-104. Service charge for failure of automatic payments.** There shall be imposed a service charge on customers who make payments to the city by automatic deduction from their bank accounts, for each occasion on which a customer's bank refuses or fails to pay, amounts due to the city pursuant to authorization previously given by the customer for automatic payment to the city, because of insufficient funds in the customer's account or any other legitimate cause related to the customer's account. The service charge shall be imposed on all customers who make payments to the city by automatic deduction, including payments for utility and other services, for use of city facilities, payments for taxes and fees, payments for participation in city activities, and payments to city court. The service charge shall be twenty dollars (\$20.00) for each failure of payment and shall be immediately payable by the customer upon assessment. If a service charge remains unpaid, it shall be subject to collection, and the customer shall be subject to service cut-off, in accordance with city policies. In either case, the customer shall be liable, in addition to the service charge, for all costs of collection incurred by the city, including reasonable attorney fees, and the city shall be authorized to take appropriate legal action, if necessary, to collect the amounts due under this section. (as added by Ord. #2003-27, Dec. 2003)

## CHAPTER 2

### REAL PROPERTY TAXES

#### SECTION

5-201. County assessments to be used.

5-202. When due and payable.

5-203. When delinquent--penalty and interest.

**5-201. County assessments to be used.** The real property assessments made by the county shall be used by the city for city real property tax purposes. (1981 Code, § 6-101)

**5-202. When due and payable.**<sup>1</sup> Taxes levied by the city against real and personal property shall become due and payable in accordance with the city's charter. (1981 Code, § 6-102)

**5-203. When delinquent--penalty and interest.**<sup>2</sup> All real property taxes shall become delinquent on and after the first day of March of the subsequent year and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the city's charter.<sup>3</sup> (1981 Code, § 6-202)

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<sup>1</sup>State law references

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

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

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

<sup>3</sup>Charter references

Property taxes: § 13.09.

Due dates, etc. : § 13.11.

## CHAPTER 3

### PRIVILEGE TAXES

#### SECTION

5-301. Tax levied.

5-302. License required.

**5-301. Tax levied.** Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. (1981 Code, § 6-201)

**5-302. 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. (1981 Code, § 6-202)

## CHAPTER 4

WHOLESALE BEER TAX

## SECTION

5-401. To be collected.

**5-401. To be collected.** The city clerk is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup> (1981 Code, § 6-301)

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<sup>1</sup>State law reference

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

**CHAPTER 5****COLLECTION OF DELINQUENT TAXES****SECTION**

5-501. Remedies available for collection of delinquent taxes.

**5-501. Remedies available for collection of delinquent taxes.**

Delinquent municipal taxes, including any applicable penalty and interest, may be collected by distress warrants issued by the mayor for the sale of goods and chattels to be executed by any police officer of the city under the laws executed by any police officer of the city under the laws governing execution of such process from a justice of the peace or by the county trustee as provided by general law, or by the city attorney acting in accordance with general laws providing collection of delinquent city and/or county taxes or by any two or more of the methods, and by the use of any available legal processes and remedies including an ordinary suit at law. (1981 Code, § 6-501)

## CHAPTER 6

### PURCHASING POLICY

#### SECTION

5-601. Publish of notice.

5-602. Procedures.

**5-601. Publish of notice.** When bids, requests for proposals or requests for qualifications are required for any expenditure or contract, a notice shall be published in a newspaper generally circulated in the City of Millington no later than the seventh (7th) calendar day preceding the date fixed for opening of such. (1981 Code, § 6-601, as replaced by Ord. #2018-11, July 2018)

**5-602. Procedures.** (1) All purchases expected to exceed ten thousand dollars (\$10,000.00) shall be based on a sealed bid which has been published in a newspaper generally circulated in the City of Millington and/or Shelby County for at least seven (7) days prior to the date of receiving bids. Purchases between four thousand and ten thousand dollars (\$4,000.00 and \$ 10,000.00) should be based on a minimum of three (3) written quotes. Bids shall be awarded on the basis of lowest and best bid.

(2) The city may make purchases based on bids of the State of Tennessee or other governments, as authorized in state law, without further bidding.

(3) Legal services and similar services by professional persons shall not be based upon competitive bids, but shall be awarded on the basis of recognized competence and integrity at customary rates of compensation and may be procured through requests for proposals.

(4) The city may purchase, sell or exchange materials, supplies, commodities, equipment and real estate from, to or with any federal, state or local government or office without conforming with the competitive bidding requirements of this section, provided the sale, purchase or exchange is based upon the fair market value of such sales to, purchases from or exchanges with other such governmental entities. (as added by Ord. #2015-19, Sept. 2015)



## CHAPTER 7

### HOTEL OR MOTEL TAX

#### SECTION

- 5-701. Levy of hotel tax.
- 5-702. Collection and payment of tax.
- 5-703. Compensation for operator.
- 5-704. Rules, records and reports.
- 5-705. Failure to collect tax.
- 5-706. Allocation of funds collected.

**5-701. Levy of hotel tax.** There is hereby levied upon transients occupying any room in a hotel (as defined in section 15(a)(4) of the Charter of the City of Millington) within the city a privilege tax upon the privilege of occupancy. Said privilege tax is permanently set at three percent (3%) of the consideration charged by the operator, exclusive of the amount of taxes payable to other governmental entities. (as added by Ord. #2009-2, March 2009, and amended by Ord. #2015-22, Dec. 2015)

**5-702. Collection and payment of tax.** The tax levied hereby shall be collected by the operator of every hotel, who shall add the amount of tax due to the invoice for each room. The operator shall remit said tax to the City of Millington in accordance with the requirements of section 15 of the charter. Not later than the 20th day of each month, every operator of a hotel shall file a monthly report with the city clerk, which report shall contain information sufficient to verify the amount of tax due to the city for the preceding month and the amount retained by the operator as permitted by § 5-703 of this chapter. (as added by Ord. #2009-2, March 2009)

**5-703. Compensation for operator.** The operator of each hotel shall be allowed to retain two percent (2%) of the total amount of such tax collected as compensation for the collection and remission of such tax to the city, but only when the amount due is not delinquent at the time of payment. (as added by Ord. #2009-2, March 2009)

**5-704. Rules, records and reports.** Each operator liable for the tax imposed hereby shall comply with all provisions of this chapter and chapter 15 of the Charter, including but not limited to the requirements for preservation of records. (as added by Ord. #2009-2, March 2009)

**5-705. Failure to collect tax.** Any operator who fails to collect and remit the taxes imposed hereby shall be responsible for payment of interest on

delinquent taxes until paid and shall in addition be subject to the penalties set out in chapter 15 of the Charter. (as added by Ord. #2009-2, March 2009)

**5-706. Allocation of funds collected.** The proceeds of the tax collected pursuant to this chapter shall be allocated as the board of mayor and aldermen of the city shall direct. (as added by Ord. #2009-2, March 2009)

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

1. POLICE DEPARTMENT.
2. POLICE SERVICES.
3. RESERVE OFFICERS.
4. DELETED.

**CHAPTER 1****POLICE DEPARTMENT****SECTION**

- 6-101. Police department.  
6-102. Police chief.  
6-103. Deleted.  
6-104.--6-108. Deleted.

**6-101. Police department.** The police department shall be responsible for law enforcement functions within the city. (1981 Code, § 1-401, as replaced by Ord. #2016-13, July 2016, and Ord. #2018-5, June 2018)

**6-102. Police chief.** The police chief shall be recommended by the city manager and approved by the board of mayor and aldermen. The police chief (department director) shall have full responsibility for organizing all police functions, including staffing of personnel, purchasing appropriate equipment, and training of said personnel. The chief shall be responsible for the appointment of all officers and departmental employees, and shall report directly to the city manager. (1981 Code, § 1-402, as replaced by Ord. #2016-13, July 2016, and Ord. #2018-5, June 2018)

**6-103. Deleted.** (1981 Code, § 1-405, as replaced by Ord. #2016-13, July 2016, and deleted by Ord. #2018-5, June 2018)

**6-104.--6-108. Deleted.** (as deleted by Ord. #2016-13, July 2016)

## CHAPTER 2

### POLICE SERVICES

#### SECTION

- 6-201. Policemen subject to police chief's orders.
- 6-202. Policemen to preserve law and order, etc.
- 6-203. Policemen to wear uniforms and be armed.
- 6-204. When policemen to make arrests.
- 6-205. Policemen may require assistance in making arrests.
- 6-206. Police records.
- 6-207. Reserve policemen.
- 6-208. Reserve policemen qualifications.
- 6-209--6-216. Deleted.

**6-201. Policemen subject to police chief's orders.** All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1981 Code, § 1-801, as replaced by Ord. #2016-13, July 2016, and Ord. #2018-5, June 2018)

**6-202. 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. (1981 Code, § 1-802, as replaced by Ord. #2016-13, July 2016, and Ord. #2018-5, June 2018)

**6-203. Policemen to wear uniforms and be armed.** All policemen shall wear such uniform and badge as the city shall authorize and shall carry a service weapon and such other equipment designated by the police chief at all times while on duty (unless otherwise expressly directed by the police chief for a special assignment). (1981 Code, § 1-803, as replaced by Ord. #2016-13, July 2016, and Ord. #2018-5, June 2018)

**6-204. When policemen to make arrests.** Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

- (1) Whenever he is in possession of a warrant for the arrest of the person.
- (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. (1981 Code, § 1-804, as replaced by Ord. #2016-13, July 2016, and Ord. #2018-5, June 2018)

**6-205. Policemen may require assistance in making arrests.** It shall be unlawful for any person to willfully refuse to aid a policeman in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary. (1981 Code, § 1-805, as replaced by Ord. #2016-13, July 2016, and Ord. #2018-5, June 2018)

**6-206. Police 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. (1981 Code, § 1-806, as replaced by Ord. #2016-13, July 2016, and Ord. #2018-5, June 2018)

**6-207.--6-208. Deleted** (as deleted by Ord. #2018-5, June 2018)

**6-209.--6-216. Deleted**. (as deleted by Ord. #2016-13, July 2016)

## CHAPTER 3

### RESERVE OFFICERS

#### SECTION

6-301. Reserve policemen.

6-302. Reserve policemen qualifications.

6-303.--6-305. Deleted.

**6-301. Reserve policemen.** A reserve policemen is defined as any person whose primary responsibility is to support the full-time police officer in the prevention and detection of crime, apprehension of offenders, assisting in the prosecution of the offenders with specifically assigned duties and/or job description and serves on a volunteer basis. Reserve officers shall not be compensated or provided any fringe benefits normally provided for city employees. Reserve officers may only work twenty (20) hours per week or a total of no more than one hundred (100) hours per month for any Tennessee law enforcement agency or combination of agencies. (1981 Code, § 1-601, as replaced by Ord. #2016-13, July 2016, and Ord. #2018-5, June 2018)

**6-302. Reserve policemen qualifications.** Individuals seeking to serve as a reserve policeman shall meet the same psychological and physical health requirements as candidates to be a policemen and must complete a course of instruction provided by the department. (1981 Code, § 1-602, as replaced by Ord. #2016-13, July 2016, and Ord. #2018-5, June 2018)

**6-303.--6-304. Deleted.** (as deleted by Ord. #2018-5, June 2018)

**CHAPTER 4**

(this chapter was deleted by Ord. #2018-5, June 2018)

**TITLE 7****FIRE PROTECTION AND FIREWORKS****CHAPTER**

1. FIRE DEPARTMENT.
2. FIRE SERVICES.
3. FIRE CODES.
4. FIREWORKS.

**CHAPTER 1****FIRE DEPARTMENT****SECTION**

- 7-101. Fire department.
- 7-102. Fire chief.
- 7-103. Public safety director duties of fire chief.

**7-101. Fire department.** The fire department shall be responsible for fire and rescue services within the city. (as repealed by Ord. #2016-13, July 2013, and added by Ord. #2018-5, June 2018)

**7-102. Fire chief.** The fire chief shall be recommended by the city manager and approved by the board of mayor and aldermen. The fire chief (department director) shall have full responsibility for organizing all fire suppression and prevention functions and emergency medical response and rescue functions, including staffing of personnel, purchasing appropriate equipment, and training of said personnel. The chief shall be responsible for the appointment of all departmental employees, and shall report directly to the city manager. (as added by Ord. #2018-5, June 2018)

**7-103. Public safety director duties of fire chief.** The fire chief shall serve as director of public safety for the city. The director shall be responsible for coordination of all search and rescue efforts associated with natural disasters, coordination with other governmental entities involving natural disasters, coordination of the city's safety and OSHA compliance functions and coordination of city services for major public events occurring within this community. (as added by Ord. #2018-5, June 2018)



## CHAPTER 2

### FIRE SERVICES

#### SECTION

- 7-201. Objectives.
- 7-202. Organization, rules, and regulations.
- 7-203. Records.
- 7-204. Chief responsible for training.
- 7-205. Chief to be assistant to state officer.

**7-201. Objectives.** The fire department shall have as its objectives:

- (1) To protect life and property from the adverse effects of fires.
- (2) To provide basic life support medical treatment.
- (3) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.
- (4) To respond to and mitigate natural or manmade disasters.
- (5) To provide fire prevention and community education. (as added by Ord. #2018-5, June 2018)

**7-202. Organization, rules, and regulations.** The fire chief shall set up the organization of fire services, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation. (as added by Ord. #2018-5, June 2018)

**7-203. Records.** The fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work performed. (as added by Ord. #2018-5, June 2018)

**7-204. Fire chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (as added by Ord. #2018-5, June 2018)

**7-205. Equipment use outside city.** No fire equipment shall be used outside the corporate limits with the exception of use permitted under mutual aid agreements or use authorized in the discretion of the senior fire official on duty. Fire equipment may further be used:

- (1) If a fire is on city property; or

(2) If, in the opinion of the senior fire official on duty, a fire is in proximity to property owned by or located within the city so as to endanger city property or property within the city; or

(3) If expressly authorized by board of mayor and aldermen. (as added by Ord. #2018-5, June 2018)

## CHAPTER 3

### FIRE CODES

#### SECTION

7-301. Shelby County Fire Codes effective within city.

7-302. Fire lanes.

7-303. Key lock boxes.

7-304. Violations and penalties.

7-305.--7-307. Deleted.

**7-301. Shelby County Fire Codes effective within city.**<sup>1</sup> The fire code, including the NFPA Life Safety Code,<sup>2</sup> in effect in Shelby County shall also be effective within the corporate limits and shall be enforced by Shelby County and City of Millington personnel. (as added by Ord. #2018-5, June 2018, and replaced by Ord. #2019-17, Aug. 2019 *Ch16\_6-29-20*)

**7-302. Fire lanes.** (1) All premises within the city which fire services may be called upon to protect in case of fire and which are not readily accessible from public roads shall be provided with suitable gales, access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. Fire lanes shall be provided for all buildings which are set back more than one hundred fifty feet (150') from a public road or exceed thirty feet (30') in height and are set back over fifty feet (50') from a public road. Fire lanes shall be at least twenty feet (20') in width with the road edge closest to the building at least ten feet (10') from the building. Any dead-end road more than three hundred feet (300') long shall be provided with a turn-around at the closed end at least eighty feet (80') in diameter.

(2) The designation and maintenance of fire lanes on private property shall be accomplished as specified by the fire chief. It shall be the responsibility of the property owner or owners to properly mark fire lane(s) as specified by the fire chief including signs and curb and parking lot striping.

(3) A written document, agreeable to the fire chief and for the benefit of the city may be required for emergency access over all fire lanes.

(4) It shall be unlawful for any person to park or cause to be parked a motor vehicle on, or otherwise, obstruct, in any manner, any marked fire lane

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<sup>1</sup>Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

<sup>2</sup>Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

in the city. No vehicle shall be left unattended at any time in any marked fire lane within the city.

(5) Loading and unloading on or across any marked fire lane shall be limited to only the time necessary for said purpose and the operator or such vehicle shall always be within reasonable distance of said vehicle for the purpose of removing said vehicle which is preventing complete access to the fire lane by fire services.

(6) Whenever any motor vehicle without a driver is found parked or stopped in duly marked fire lane in the city in violation of this section, the officer finding such vehicle may affix to such vehicle a citation for the driver and/or owner to answer for such violation in accordance with § 15-701 et seq., of this municipal code, and any person, firm or corporation violating any of the parking restrictions imposed by this section shall be subject to all of the provisions of said § 15-703, shall be guilty of a misdemeanor, and shall be fined as provided in said § 15-705.

(7) Whenever any motor vehicle is found parked or stopped in any marked fire lane in the city, or obstructing the same, the officer finding such vehicle may cause the same to be removed by towing or otherwise and the owner or such vehicle shall be liable for the cost of such removal.

(8) Any person, firm or corporation who shall violate or fail to comply with any section of the provisions of this section shall be guilty of a misdemeanor and upon conviction of any such violation other than as provided in subsection (6) hereof shall be fined under the general penalty clause for this municipal code. (as added by Ord. #2018-5, June 2018, and replaced by Ord. #2019-17, Aug. 2019 **Ch16\_6-29-20**)

**7-303. Key lock boxes.** All facilities which provide proprietary services, such as, but not limited to, hotels, motels, hazardous, factory/industrial, etc., as well as buildings or parts of buildings served by an internal automatic fire detection or suppression system, having a connection to a central monitoring station facility, shall have a fire key lock box approved prior to installation by fire services. The lock box installed shall:

(1) Be installed after applying for and receiving a permit from fire services.

(2) Be located at or near the recognized public entrance, at a location approved by the fire chief or his designee.

(3) Be located at a height of not less than six feet (6') and not more than twelve feet (12') above final grade.

(4) Be located where no steps, displays, signs, or other fixtures or structure protrusions shall be located under the key lock box which would allow intruders to access the box without assistance.

(5) Contain clearly marked keys to the locks within the building as identified during the plans review and permit process. (as added by Ord. #2018-5, June 2018, and replaced by Ord. #2019-17, Aug. 2019 **Ch16\_6-29-20**)

**7-304. Violations and penalties.** Any person, firm, corporation, tenant, occupant or agent who shall violate a provision of the fire code or fails to comply therewith or with of the requirements thereof or cause such action lo be taken in violation of the provisions of this code adopted by reference or locally adopted as modified shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation is committed or continued. Upon being found guilty of such violation, such person shall be punished according to the general penally clause of the city or through injunctive remedies in state or federal court as appropriate. In the event court action is taken, the city shall be entitled to recover from any person adjudicated lo have violated this chapter the city's reasonable attorney fees and litigation costs incurred in bringing the action(s) to enforce the provisions of this chapter. Further, a permit issued to a violator may be revoked. (as added by Ord. #2018-5, June 2018, and replaced by Ord. #2019-17, Aug. 2019 *Ch16\_6-29-20*)

**7-305.--7-307. Deleted.** (as added by Ord. #2018-5, June 2018, and deleted by Ord. #2019-17, Aug. 2019 *Ch16\_6-29-20*)

## CHAPTER 4

### FIREWORKS

#### SECTION

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

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

(a) "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 of:

(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, 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.

(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 mixture 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 Millington 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, copartnership, 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. (as added by Ord. #2019-11, May 2019 *Ch16\_6-29-20*)

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

(a) Permits are not transferable.

(b) A permit (to sell fireworks to the general public) is valid only from June 20 through July 5 or December 21 through January 2.

(c) The permit fee for retail permits is one thousand dollars (\$1,000.00) per location.

(d) The fee for public displays using Special Display (1.3G) Fireworks is twenty-five dollars (\$25.00).

(e) Schools, wedding groups, businesses, and civic clubs that desire to have a 1.3G Special Display or 1.4G Consumer Fireworks display may obtain a permit to use fireworks for any time of the year by paying a twenty-five dollar (\$25.00) permit fee and obtaining a permit from the city.

(2) A permit to sell fireworks in the City of Millington 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 application must include the name, address, and telephone number of applicant.

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

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

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

(3) A copy of the state fire marshal permit. (For a state permit to be obtained by a retailer, the mayor or city manager 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) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of other structures in the area that are occupied, location and number of parking places, location of any nearby residences, location of the nearest fuel outlets, and location of other fireworks outlets if located within seven hundred fifty feet (750') of a retail structure.

(6) Mobile vendors are not permitted.

(7) Flashing signs are not permitted.

(8) One (1) double-faced sign is permitted; however, each sign face may not exceed thirty-two (32) square feet in area and eight feet (8') in height.

(9) The application must contain evidence that general liability insurance has been obtained by applicant naming the City of Millington as additional insured for at least two million dollars (\$2,000,000.00) for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined.

(10) 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.

(11) Applicant shall pay one hundred dollars (\$100.00) cleanup deposit per location, which shall be refunded after the fireworks season or used by the city to cleanup the retail fireworks site if needed. Failure to cleanup the location may result in forfeiture of the deposit, the incurring of additional cleanup costs and the revocation of the permit.

(12) After the application has been submitted and approved, a city codes inspector shall inspect the site for compliance with applicable codes and ordinances. The permit holder must contact the city for a post compliance inspection after the completion of the sales period to verify the condition of the site is in accordance with the terms of this chapter. (as added by Ord. #2019-11, May 2019 *Ch16\_6-29-20*, and amended by Ord. #2020-7, June 2020 *Ch16\_6-29-20*)

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



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

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

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

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

(2) When any activities of the permittee constitute a distinct hazard to life or property, the codes director or fire official, or both, may revoke the permit immediately. (as added by Ord. #2019-11, May 2019 *Ch16\_6-29-20*)

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

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

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

(2) Any display using 1.3G Display Fireworks must be under the control of a licensed pyrotechnics technician. (as added by Ord. #2019-11, May 2019 *Ch16\_6-29-20*)

**7-405. Storing and structures.** No person may smoke within a tent where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, pipes or vapor products (as defined by Tennessee Code Annotated, § 19-17-1508) within a tent where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted sign with the words "Fireworks - No Smoking" in letters not less than four inches (4") inches high. An inspected and currently tagged fire extinguisher with a minimum 2A rating and one (1) pressurized water type fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding tent as described in § 7-406. Fireworks must be stored at least ten feet (10') away from windows and other areas where the sun may shine through. Fireworks are not permitted to be stored in residential districts, except for personal use. (as added by Ord. #2019-11, May 2019 *Ch16\_6-29-20*, and replaced by Ord. #2020-7, June 2020 *Ch16\_6-29-20*)

**7-406. Limitations on tents.** Only tents meeting the current adopted International Building Code and the Life Safety Code (NFPA 101) may be used for the retail sale of fireworks. Ground fault interrupter protection must be used

for power cords that supply power to tents. Electrical wiring inside tents shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. No tent from which fireworks are sold may exceed three thousand two hundred (3,200) square feet. Fireworks may not be stored in a permanent building. Tents shall not be erected any more than seven (7) days prior to the sale of fireworks and must be removed within seven (7) days after the completion of the sales period. No sleeping shall be allowed within tents and/or stands. (as added by Ord. #2019-11, May 2019 *Ch16\_6-29-20*, and replaced by Ord. #2020-7, June 2020 *Ch16\_6-29-20*)

**7-407. Location of fireworks outlets.** Fireworks sales tents must be no closer than one hundred twenty feet (120') from any occupied building. Fireworks sales are permissible only on property in the FW Fireworks Sales Overlay Zoning District and the sales tent must be located a minimum of forty-five feet (45') from the right of way. Any fireworks sales tent must be at least three hundred feet (300') from a residence.

Retail fireworks sales must also be located on a four (4) lane roadway. (as added by Ord. #2019-11, May 2019 *Ch16\_6-29-20*)

**7-408. Parking for retail fireworks sales site.** The site for a fireworks retailer shall be improved to provide at least ten (10) graveled or paved parking places for off street and right-of-way customer parking. In addition, the retail fireworks site must provide for an on-site turn-around area so that backing of vehicles onto the street will not be necessary. There shall be no parking on the grass or other vegetated areas to avoid a fire hazard. (as added by Ord. #2019-11, May 2019 *Ch16\_6-29-20*)

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

(2) The parcel in which a fireworks retail use is required shall be a minimum of seven hundred and fifty feet (750') from other similar uses. This distance shall be measured in a straight line from tent to tent. Priority shall be given to the retailer who obtained a permit the previous year at the same location. (as added by Ord. #2019-11, May 2019 *Ch16\_6-29-20*)

**7-410. 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 sixteen (16) 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. It is unlawful to ignite fireworks during a burning ban declared by either the State of Tennessee or the City of Millington Fire Department, except for public (and/or group) displays for which permits have been granted. (as added by Ord. #2019-11, May 2019 **Ch16\_6-29-20**)

**7-411. Limited time period to use fireworks.** Limited time period to use fireworks. It is unlawful to discharge or use fireworks except for the following time periods:

(1) July 1 through July 4 - The permissible hours are from 10:00 A.M. to 10:30 P.M. except for July 3 when permissible hours are from 10:00 A.M. to 11:30 P.M.

(2) December 31 and January 1 - The permissible hours from 8:00 P.M. on December 31 to 1:00 P.M. on January 1. (as added by Ord. #2019-11, May 2019 **Ch16\_6-29-20**)

**7-412. 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. #2019-11, May 2019 **Ch16\_6-29-20**)

**7-413. Violations and penalties.** Violations of any provision of this chapter shall be subject to a penalty of up to fifty dollars (\$50.00)/day per violation. (as added by Ord. #2019-11, May 2019 **Ch16\_6-29-20**)

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

1. INTOXICATING LIQUORS.
2. BEER.

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

- 8-101. Permitted subject to regulation.  
8-102. Inspection fee.  
8-103. Number of retail businesses limited.

**8-101. Permitted subject to regulation.** It shall be lawful to manufacture, store, transport, sell, distribute, possess and receive alcoholic beverages, subject to the license, payment of taxes, limitations, regulations and conditions provided for in title 57, chapter 3, Tennessee Code Annotated. (1981 Code, § 2-101)

**8-102. Inspection fee.** (1) For the purpose of this section, the following definitions shall apply:

(a) "Alcoholic beverage" as defined in this section means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol spirits, or wine and capable of being consumed by a human being, other than patented medicines, beer, wine, or cider, where the latter three (3) contain an alcoholic content as allowed by state law.

(b) "Retailer" means a person who sells alcoholic beverages for consumption and not for resale.

(c) "Wholesaler" means a person who sells alcoholic beverages to retailers, and shall include distributors, distillers, or any persons making sales to retailers.

(2) There is hereby levied and imposed against all retailers of alcoholic beverages as herein defined an inspection fee at the rate of five percent (5%) on all purchases of alcoholic beverages made by such retailers from wholesales. The fee shall be measured by the wholesale price of the alcoholic beverages sold by

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

the wholesaler and paid by the retailer to the wholesaler, and shall be five percent (5%) of such wholesale price.

(3) The fee levied by this section shall be added by the wholesaler to each invoice for alcoholic beverages sold to each retailer within the City of Millington, and shall be collected by the wholesaler at the time of the sale, or at the time the retailer makes payment for the delivery of the alcoholic beverages.

(4) Each wholesaler making sales to retailers within the City of Millington shall furnish to the city clerk a report monthly, which report shall contain a list of alcoholic beverages sold to each retailer within the City of Millington, the wholesale price of the alcoholic beverages sold to each retailer, the amount of the tax due, and such other information as shall be required by the city clerk. The monthly report shall be furnished to the city clerk not later than the 20th day of the month following that in which the sales were made, and inspection fees collected by the wholesaler from the retailer shall be paid to the city clerk at the time the monthly report is made.

(5) Wholesalers collecting and remitting the above inspection fee to the city shall be entitled to reimbursement for this collection service a sum equal to 5% of the total amount of inspection fees collected and remitted, such reimbursement to be deducted by the wholesaler and shown on the monthly report to the city clerk.

(6) Failure to collect and timely report and/or pay the inspection fee collected shall result in a penalty of 10% of the fee due the city, which shall be paid to the city clerk. The city clerk, or her duly authorized representative, shall have access to the books and records of all wholesalers at reasonable times for the purpose of ascertaining and verifying the taxes due under the provisions of this section.

(7) The city clerk is hereby authorized and empowered to take any and all steps necessary to enforce payment of any inspection fee due under the provisions of this chapter. (1981 Code, § 2-102, as amended by Ord. #2017-10, June 2017)

**8-103. Number of retail businesses limited.** No more than three (3) licenses for the retail sale of alcoholic beverages within the corporate limits shall be issued and outstanding at any one (1) time. There shall be no numerical limit on licenses for on-premises consumption which otherwise conform to this chapter and state law. (as added by Ord. #2015-2, Jan. 2015)

## CHAPTER 2

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

#### SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers, duties, and hearings of the beer board.
- 8-206. Permit required--publication--notice.
- 8-207. Conditions and restrictions on beer permits.
- 8-208. Interference with public health, safety and morals prohibited.
- 8-209. No beer permit issued after conviction of certain offenses or after revocation.
- 8-210. Registration and photograph identification cards required.
- 8-211. Prohibited conduct or activities by permit holders, their owners, managers and employees.
- 8-212. Liability of permit holder for acts of agents or employees.
- 8-213. Return of permit upon occurrence of certain events.
- 8-214. Collection of privilege tax.
- 8-215. Civil penalty in lieu of suspension or revocation.
- 8-216. Exemptions.
- 8-217. Special uses permits.
- 8-218. Entertainment recreation center beer permit.
- 8-219. Violations.
- 8-220. Severability.

**8-201. Beer board established.** There is hereby established a beer board to be composed of all the members of the board of mayor and aldermen. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without compensation. (1981 Code, § 2-201)

**8-202. Meetings of the beer board.** All meetings of the beer board shall be open to the public. When a meeting is necessary, it shall be held immediately before the board of mayor and aldermen regular monthly meeting. The beer board shall give public notice of all meetings in the same manner as public notice is given of special meetings of the board of mayor and aldermen.

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<sup>1</sup>State law reference

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

Meetings of the beer board may be adjourned to another time and place provided such time and place are announced at the adjourned meeting. (1981 Code, § 2-202, as replaced by Ord. #2017-10, June 2017)

**8-203. Record of beer board proceedings to be kept.** The city clerk shall attend and make a separate record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: the date of each meeting; the names of the beer board members present and absent; the names of the members introducing and seconding motions and resolutions, before the beer board; a copy of each such motion or resolution presented; the vote of each member thereon; and the contents of each beer permit issued by the beer board. (1981 Code, § 2-203)

**8-204. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. However, when a quorum is present the affirmative vote of only a simple majority of the members voting shall be required for affirmative action by the beer board. (1981 Code, § 2-204)

**8-205. Powers, duties, and hearings of the beer board.** The beer board shall have the power, and it is hereby directed to regulate the selling, storing, distributing and manufacturing of beer within the City of Millington in accordance with the provisions of this chapter and the laws of the State of Tennessee. It shall have the power to promulgate reasonable rules and regulations for the conduct of its business and the enforcement of this chapter.

The beer board shall hold hearings in accordance with the following:

(1) All matters brought before the beer board will be heard in the following order:

- (a) Requests for continuances;
- (b) Rehearings and decisions where no protests have been received;
- (c) Special hearings;
- (d) Violations in which permit holders are represented by counsel and/or at the request of the police;
- (e) Applications for issuance of beer permits;
- (f) Rehearings and decisions where protests have been received.

(2) Those permit holders charged with violations will be given written notice not less than five (5) days in advance to appear before the beer board to answer charges.

(3) All alleged permit violators at the hearing have the right to plead not guilty to any or all of the charges, to have assistance of counsel, to cross examine witnesses and to testify and present witness(es) and evidence on his or her behalf.

(4) All witnesses in a contested matter before the beer board shall first be sworn in by the city clerk/recorder, a representative from that office authorized to administer an oath or by a certified court reporter prior to any testimony or evidence being given.

(5) Hearsay evidence is admissible in hearings before the Beer board.

(6) The beer board has no power to subpoena or require the presence of any witness.

(7) A transcript recording may be made of all contested beer board hearings. The city clerk/recorder shall be advised by the permit holder, prior to the hearing, that a transcribed recording is required. The cost of such a recording shall be divided equally between the permit holder and the city. All other matters before the beer board shall be tape-recorded.

(8) After hearing all the testimony in a given case, the beer board may take the following action:

(a) Dismiss any and all charges;

(b) Place on probation for up to one (1) year, pursuant to the limitations and restrictions imposed by Tennessee Code Annotated, §§ 57-5-608 and 57-5-108;

(c) Suspend the beer permit for any number of days or indefinitely, pursuant to the limitations and restrictions imposed by Tennessee Code Annotated, §§ 57-5-608 and 57-5-108;

(d) Revoke the beer permit, pursuant to the limitations and restrictions imposed by Tennessee Code Annotated, §§ 57-5-608 and 57-5-108;

(e) Offer a civil monetary penalty as an alternative to suspension or revocation, not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense, to a responsible vendor if the permit or license holder and the clerk making the sale have complied with the requirements of Tennessee Code Annotated, § 57-5-601 et seq. (Tennessee Responsible Vendor Act of 2006.)

(f) Offer a civil monetary penalty as an alternative to suspension or revocation, not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense, to a vendor who is not a responsible vendor in accordance with the requirements of Tennessee Code Annotated, § 57-5-601 et seq. (Tennessee Responsible Vendor Act of 2006), or to a responsible vendor under the same act if the vendor or clerk making the sale to a minor fails to comply with the requirements of Tennessee Code Annotated, §7-5-606.

(g) If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days from the date of the hearing within which to pay the civil penalty to the city clerk/recorder



before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. The permit holder's payment of the civil penalty shall not affect the options provided by subsection (10) of this section.

(9) In assessing a penalty, the beer board may consider the past record of the permit holder and location.

(10) Upon receiving an adverse ruling by the beer board, an applicant or permit holder shall either:

(a) Accept the decision and penalty; or

(b) File a writ of certiorari in the Shelby County Circuit or Chancery Courts.

(11) The revocation or suspension assessed by the beer board will take effect on the fifteenth (15) day after the beer board decision at 12:01 A.M. and will be continuously enforced throughout the period of suspension or revocation. In the event a permit holder requests a re-hearing or files a Writ of Certiorari, the enforcement period will become effective upon completion of the re-hearing or the disposition of the Writ of Certiorari. (1981 Code, § 2-204, as replaced by Ord. #2017-15, Sept. 2017)

**8-206. ~~Permit required--publication--notice.~~** (1) It shall be unlawful for any business to engage in the sale, distribution, manufacture or storage of beer without a permit issued by the beer board.

(2) Permit applications shall be made upon forms prescribed by the beer board.

(3) When any application for a beer permit is filed, the city clerk shall cause notice of the application to be published in a newspaper of general publication at least two (2) calendar days prior to the applicant's consideration by the beer board. Cost of the publication shall be paid by applicant. Said application shall state:

(a) The name of the owner of the business for which the permit is sought and the name(s) of the person(s) who will operate and/or manage the business on behalf of the owner,

(b) The names and addresses of all persons, firms, corporations, joint-stock companies, syndicates or associations having at least a five percent (5%) ownership interest in the applicant,

(c) The name and address of a representative to receive annual tax notices and other communications from the beer board or the City of Millington,

(d) The name under which the business will operate,

(e) The type permit requested ("on-premises" or "off-premises") only one type permit - either "on-premises" or "off-premises" shall be issued for each location,

(f) The address for which the permit is sought,

(g) If the application is for an "on-premises" permit, identification of any parts of the premises described in section 2-206(10) where beer will be served,

(h) A description of the business that will be operated in the location for which a permit is sought, and

(i) Such other information as the beer board may by regulation require.

(j) There shall be submitted with each application for a beer permit one (1) identical clear frontal photographs of the applicant, at least 2" by 2." If the applicant is other than an individual, the photograph shall be of the president, managing partner or manager, who shall be the same individual to whom notice of an alleged violation of this chapter by the permit holder is to be sent.

(k) If the applicant is the owner of the real property for which the permit is sought, a copy of the deed evidencing its ownership shall be submitted with the application. If the applicant intends to lease the real property for which the permit is sought, a copy of the lease shall be submitted with the applicant.

(4) If the application is for a permit to sell beer at a place of business where beer has not been sold during the twelve (12) months prior to the date of application, the owners of property located within 1,000 feet of the proposed location shall be notified at least one (1) week in advance of the consideration of the application by the beer board. This notice shall contain the information described in subsection (3) above.

(5) Upon the filing of an application for a beer permit, the applicant shall pay a non-refundable application fee of \$250 to the city clerk. Any portion of the application fee in excess of the amount actually used in the investigation of the applicant shall become the property of the City of Millington, to be used for any municipal purpose.

(6) Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint-stock company, syndicate or association. Permits shall state the name under which the business is to be operated as well as the name of the owner.

The permit holder shall notify the police department of the name of every person who is employed as operator or manager of the permitted establishment on behalf of the owner not more than five (5) business days after such person begins work. Failure to provide such notice shall be a violation of this chapter.

(7) A permit is valid only for the owner to whom it is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when there is any transfer of ownership or control of stock that changes the ownership or control of fifty percent (50%) or more of the stock of the corporation. If the owner is a partnership or joint venture, a change in ownership shall occur when there is any change in ownership or control of a

partnership or joint venture interest that affects the ownership of a majority interest in the business.

(8) A permit is valid only for the business operating under the name identified in the permit application.

(9) Except as provided in this subsection (9), a permit is valid only for a single location and cannot be transferred to another location. Where the same owner operates two (2) or more restaurants or other businesses within the same building, the owner may operate some or all of such businesses pursuant to the same permit.

(10) An "on-premises" permit shall be valid for decks and patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business, provided the following conditions are met:

(a) Such outdoor serving area is fully screened from public view by hedges or other vegetation or by a fence or wall constructed in accordance with applicable building codes;

(b) Such outdoor serving area complies with all applicable zoning, building, health and safety laws, ordinances and regulations;

(c) No unreasonably loud, disturbing and unnecessary noise, including noise caused by the playing of any radio, phonograph, musical instrument or sound device, created or permitted by the holder of the permit in such outdoor serving area;

(d) The permit holder shall not allow any consumption of beer or other alcoholic beverages on the streets or sidewalks or on the parking lot of the premises for which the permit is held.

(11) An applicant making false statement in the application shall forfeit its permit and shall not be eligible to receive any permit for a period of ten (10) years.

(12) No beer permit shall be issued for any premises that is in violation of applicable zoning, building, fire or safety laws, codes, ordinances or regulations or to any applicant who does not have a current valid business tax license. (1981 Code, § 2-206, modified, as amended by Ord. # 2005-26, Feb. 2006, Ord. #2014-10, Oct. 2014, Ord. #2017-10, June 2017, and Ord. #2019-10, May 2019 *Ch16\_6-29-20*)

**8-207. Conditions and restrictions on beer permits.** (1) Every beer permit shall be restrictive as to the type of beer business authorized. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing beer. Permits for the retail sale of beer may be further restricted to authorize sales only for consumption "off-premises" or consumption "on-premises". No beer permit will be issued to a spouse, child, other relative, employee or any other person having any interest in the business of a permit holder whose beer permit has been revoked within the past twelve months, nor

shall a permit be issued for any location not in compliance with the zoning laws of the City of Millington.

(2) The holder of an "on-premises" permit must serve at least one hot meal per day at tables provided for that purpose, with a menu available to be read by customers. The establishment must have a minimum seating capacity of forty-eight (48) persons. A minimum of 40% of the gross revenues of each establishment with an "on-premises" permit must be from food sales. This provision shall not apply to any establishment for which the owner holds a valid "on-premises" permit as of April 3, 1995, as long as such establishment is owned by the same owner. It shall apply to all "on-premises" permits issued for establishments that are not subject to "on-premises" permits as of April 3, 1995 and to all "on-premises" permits that are issued to persons or entities who become owners of currently permitted establishments after such date.

(3) It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by the permit. It shall likewise be unlawful for the holder of a beer permit, including a special use permit, to fail to comply with all restrictions or conditions contained in the permit, this chapter and the rules and regulations of the beer board. (1981 Code, § 2-207)

**8-208. Interference with public health, safety and morals prohibited.**

(1) No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety or morals.

(a) No permit will be issued authorizing the storage, sale, distribution or manufacture of beer at premises located within three hundred feet (300') of any school or church, or within two hundred fifty feet (250') of any other place of public gathering. Measurements as slated above shall be measured in a straight line from the nearest properly line of the school or church or other place of public gathering to the (nearest entrance to the establishment) at which beer is lo be sold or manufactured. A cemetery attached to a church on a separate parcel of land shall not constitute a "place of public gathering" in accordance with these provisions, and any measurement for purposes of this section shall be from the nearest properly line of the church, not the properly line of the cemetery.

(b) No permit will be issued authorizing the sale of beer under an "on-premises" permit at an establishment located within two hundred (200) feet of any real property zoned for residential use. Measurements as stated in this subsection shall be measured in a straight line from the nearest property line of the residentially zoned property to the nearest

entrance to the establishment at which beer is to be sold for "on-premises" consumption.

(2) Notwithstanding the provisions of § 8-208(1), a permit to sell, distribute, store or manufacture beer shall not be denied, suspended or revoked on the basis of proximity of the business to a school, church or other place of public gathering if a valid permit has been issued to any business for that same location as of January 1, 1993. This section shall not apply if beer is not stored, sold, distributed or manufactured at that location during any continuous six (6) month period after January 1, 1993.

(3) (a) Notwithstanding the provisions of § 8-208(1), establishments that have current valid permits from the State of Tennessee to sell liquor by the drink on-premises may apply for and be granted permits to sell beer for on-premises consumption, provided that they meet all other requirements for the beer permit.

(b) If an establishment secure an on-premises beer permit issued pursuant to § 8-208(3)(a) above, that beer permit shall automatically terminate effective at the time the establishment ceases to maintain a current valid state license to sell liquor by the drink. (1981 Code, § 2-208, as amended by Ord. #2002-10, Nov. 2002, and Ord. #2019-21, Nov. 2019 *Ch16\_6-29-20*)

**8-209. No permit issued after conviction of certain offenses or after revocation.** (1) No beer permit shall be issued to any applicant if any individual applicant or any person, firm, corporation, joint-stock company, syndicate or association having at least a five percent (5%) ownership interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance that is listed in Tennessee Code Annotated, title 39, chapter 17, part 4, schedules I through V, of any felony or of any crime involving moral turpitude, within the past ten (10) years.

(2) When a beer permit has been revoked, no new beer permit shall be issued to permit the sale of beer on the same premises until after the expiration of one (1) year from that date the revocation becomes final and effective. The beer board, in its discretion, may determine that issuance of a beer permit before the expiration of one year from the date the revocation becomes final is appropriate, if the individual applying for such issuance is not the original permit holder or the spouse, child, parent, son-in-law, daughter-in-law, employee or other person having an interest in the business of a permit holder whose permit was revoked. (1981 Code, § 2-209, as replaced by Ord. #2006-11, Nov. 2006)

**8-210. Registration and photograph identification cards required.**

(1) (a) All employees and all other persons acting on behalf of the

permit holder or manager who serve or otherwise come in contact with customers, including waiters, waitresses, bartenders, bouncers and dancers, at any establishment that holds an "on-premises" beer permit, and all owners of any interest in an establishment where beer is sold for "on-premises" consumption who work in the establishment shall maintain, and during all times when they are at work shall have in their possession, a current photograph identification card issued by the Millington Police Department.

(b) All employees and other persons acting on behalf of the permit holder or manager at any establishment that holds an "off-premises" beer permit, including owners who work in any such establishment, shall maintain and during all times when they are at work shall have in their possession a current photograph identification card issued by the Millington Police Department.

(2) Photograph identification cards issued by the Millington Police Department shall be valid for periods of three (3) years from the date of issuance and must be renewed every three (3) years.

(3) Persons required by this § 8-210 to have photograph identification cards must have a valid separate card for each location at which they work.

(4) The fee for each original or renewal photograph identification card shall be \$10.00 and shall be due and payable upon application for each original card and each renewal card.

(5) Applications for photograph identification cards must be made in person during regular weekday business hours at the Millington Police Department.

(6) The holder of any beer permit shall register with the Millington Police Department prior to their beginning work the names and addresses of all persons employed and/or working at the location for which an "on-premises" permit is held. Failure to register such information in a timely manner shall be a violation of this chapter.

(7) Each permit holder shall provide to the Millington Police Department annually, at the time of payment of the privilege tax required by § 8-214, a current list of all persons employed and/or working at the permitted premises.

(8) All persons required by this § 8-210 to secure photograph identification cards who are employed and/or working at establishments with "on-premises" permits when this chapter takes effect shall have not more than thirty (30) days from the effective date hereof to secure such cards. All permit holders required by § 8-210(6) to register employees and/or other persons with the Millington Police Department shall have not more than thirty (30) days from the effective date of this chapter to register. (1981 Code, § 2-210, as amended by Ord. #2006-11, Nov. 2006)

**8-211. Prohibited conduct or activities by beer permit holders, their owners, managers and employees.** It shall be unlawful for any beer permit holder, or any operator or manager of a business with a beer permit, or to the extent applicable to his or her own actions, for any employee of a business with a beer permit, to:

(1) Employ any person convicted for violating any state or local law governing the possession, sale, storage, manufacture, transportation or distribution of intoxicating liquor or beer, or who has more than once been convicted of possession or sale of any controlled substance or the offense of prostitution, or who has been convicted of a felony involving moral turpitude within the past eight (8) years.

(2) Make or allow any sale of beer, or allow consumption of beer or have beer on tables, under an "on-premises" permit between the hours of 3:00 A.M. and 8:00 A.M. on Monday through Saturday or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday. It is the intent of this ordinance that the hours for sale or consumption of beer in an establishment with an "on-premises" beer permit shall be the same as the hours set by the State of Tennessee for sale or consumption of alcoholic beverages in establishments with current licenses from the state to serve liquor-by-the-drink.

(3) Make or allow any sale of beer under an "off-premise" permit between the hours of 2:00 A.M., and 7:00 A.M. during any night of the week or from 2:00 A.M. Sunday to 10:00 A.M. Sunday

(4) Allow any loud, unusual or obnoxious noises to emanate from the permitted premises.

(5) Make or allow any sale of beer to a minor or to allow any person to purchase or attempt to purchase any beer on behalf of a minor or for the purpose of making a gift of same to a minor.

(6) Allow any person under the age of eighteen (18) years to perform the duties of a checker or sales person or actually to make sales of beer. Persons under the age of eighteen (18) years of age may be employed as sackers or stock persons in establishments holding "off-premises" permits and as otherwise permitted by law in establishments holding "on-premises" permits.

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

(8) Allow drunk or disreputable persons to loiter about the permitted premises.

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

(10) Allow, permit or condone the drinking of beer anywhere on the premises subject to an "off-premises" permit, or anywhere outside the principal building subject to an "on-premises permit" other than as permitted by § 8-206(10) of this chapter.

(11) Allow beer to be sold or consumed when the permitted premises are locked.

(12) Drink or permit any employee to drink any intoxicating beverage of any kind or character while on duty, or to sell or dispense or permit his agents, servants or employees to sell or dispense beer, when the person selling or dispensing beer is drinking intoxicants of any kind or character.

(13) Permit any performer or entertainer in any place or establishment wherein beer is sold or consumed on the premises to:

(a) Publicly perform acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual acts prohibited by law.

(b) Publicly engage in actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus or genitals.

(c) Publicly engage in the actual or simulated displaying of the pubic hair, anus, buttocks, vulva, genitals or breasts below the top of the areola of any person.

(d) Publicly wear or use any device or covering exposed to public view which simulates the human breasts, genitals, anus, buttocks, pubic hair or any portion thereof.

(14) Fail to report immediately to the Millington Police Department any disturbance, fight, or altercation in, on or about the premises where beer is sold, pursuant to an "on-premises" permit.

(15) Employ or allow to work in a location with an "on-premises" beer permit any employee, waiter, waitress, bartender or dancer, including any owner of an interest in the business for which the permit is issued, who does not have a current valid photograph identification card for the permitted location in his or her possession while at work.

(16) Fail to register with the Millington Police Department all persons required to be registered under §§ 8-210(6) and (8) or fail to provide to the Millington Police Department at the required time the information described in § 8-210(7).

(17) Furnish false or incomplete information on an application for a beer permit.

(18) Fail to secure or maintain a current City of Millington business tax license.

(19) Fail to keep the premises in compliance with all applicable zoning, building, fire, health and safety laws, codes, ordinances and regulations.

(20) Fail to notify in writing the Millington Beer Board of any change in the ownership of a business subject to a permit, whether it be partnership, proprietorship, or corporation, within fifteen (15) days of such change. (1981 Code, § 2-211, as amended by Ord. #2002-1, March 2002, Ord. #2005-26, Feb. 2006, Ord. #2006-11, Nov. 2006, and Ord. #2019-10, May 2019 *Ch16\_6-19-10*)

**8-212. Liability of permit holder for acts of agents or employees.**

(1) The holder of an "on-premises" permit shall be liable for all acts of



all persons selling or serving beer or admitting patrons and all persons entertaining patrons in an "on-premises" permit establishment.

(2) The holder of an "off premises" permit shall be liable for all acts all persons selling beer in an "off-premises" establishment. (1981 Code, § 2-212, as amended by Ord. #2005-26, Feb. 2006)

**8-213. Return of permit upon occurrence of certain events.** A permit holder must return a permit to the beer board within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name. A permit shall automatically expire upon termination of the business, change in ownership, relocation of the business or change of the business's name, whether or not said permit is returned by the holder. (1981 Code, § 2-213)

**8-214. Collection of privilege tax.** (1) The \$100 per year privilege tax imposed on the business of selling distributing, storing or manufacturing beer in this state by Tennessee Code Annotated, § 57-5-104 (b) (1) shall be due and payable to the City of Millington on January 1, 1994 and on January 1 of each year thereafter. The city shall mail written notice to each permit holder, at the address specified on the permit application, of the payment date of said tax at least thirty (30) days prior to January 1. If a permit holder fails to pay the tax by the later of January 31 or thirty (30) days after such notice was mailed, the city shall notify the permit holder by certified mail, return receipt requested, that the tax payment is past due. The failure to pay the tax required by Tennessee Code Annotated, § 57-5-104(b)(1) shall result in the penalties provided for by, and imposed in accordance with, state law.

(2) Upon issuance of a new permit, the permit holder shall pay the privilege tax on a prorated basis for each month or part of a month remaining until the next tax payment date. (1981 Code, § 2-214)

**8-215. Civil penalty in lieu of suspension or revocation.** Pursuant to Tennessee Code Annotated, § 57-5-108, the board may assess a civil penalty against a permit holder in lieu of suspension or revocation of said permit. The board may:

(1) Offer a civil monetary penalty as an alternative to suspension or revocation, not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense, to a responsible vendor if the permit or license holder and the clerk making the sale have complied with the requirements of Tennessee Code Annotated, § 57-5-601 et seq. (Tennessee Responsible Vendor Act of 2006.)

(2) Offer a civil monetary penalty as an alternative to suspension or revocation, not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense, to a vendor

who is not a responsible vendor in accordance with the requirements of Tennessee Code Annotated, § 57-5-601 et seq. (Tennessee Responsible Vendor Act of 2006), or to a responsible vendor under the same act if the vendor or clerk making the sale to a minor fails to comply with the requirements of Tennessee Code Annotated, § 57-5-606.

(3) If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days from the date of the hearing within which to pay the civil penalty to the city clerk/recorder before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. The permit holder's payment of the civil penalty shall not affect the options provided by subsection 8-205(10). (1981 Code, § 2-215, as amended by Ord. #2005-26, Feb. 2006, and replaced by Ord. #2017-15, Aug. 2017)

**8-216. Exemptions.** This chapter shall in no way affect any post exchange, ship service store, or commissary operated by the United States armed forces. (1981 Code, § 2-216)

**8-217. Special use permits.** (1) Application for a special use beer permit shall be made to the beer board upon forms provided by the beer board at least thirty (30) days prior to the event for which the permit is sought. The beer board reserves the right to waive said thirty (30) day period.

(2) There shall be a fee of fifty dollars (\$50.00) due and payable at the time the application is made for each calendar day requested for the special use permit.

(3) Each special use beer permit shall be valid for a stated period not to exceed seventy-two (72) consecutive hours.

(4) The holder of a special use beer permit shall be liable for the acts of all persons serving beer under such permit.

(5) No special use beer permit shall be valid for the sale and consumption of beer on any premises for which a permit has been revoked within the past twelve (12) month period, nor shall a special use beer permit be used for the sale and consumption of beer on any premises owned or leased by a person, firm, corporation, joint-stock company, syndicate, or association having at least a five-percent (5%) ownership interest in the establishment that has had any beer permit revoked within the past twelve (12) month period.

(6) No special use beer permit shall be valid for the sale and consumption of beer on any premises within three hundred feet (300') from a church or a school or its playground, unless the catered event is sponsored and held by the church or private school for the benefit of said church or school.

(7) No applicant shall be granted a special use beer permit more than four (4) times in any twelve (12) month period.

(8) No special event permit holder shall permit the sale of beer in any venue or location for which all ingress and egress points are not monitored so

as to prevent the removal of the beer from the area in which the point of sale was made.

(9) The beer board may impose such additional requirements and conditions upon the special use beer permittee and permit as it may deem necessary for the health, safety and security of the citizens of the City of Millington. (1981 Code, § 2-217, as replaced by Ord. #2014-10, Oct. 2014, and amended by Ord. #2017-10, June 2017)

**8-218. Entertainment recreation district beer permit.** (1) An application for an "on-premises" beer permit for the sale within a recreational facility that lies solely within the Millington Entertainment Recreation Zoning District may be submitted to and approved by the beer board.

(2) The "on-premises" permit shall be limited to sales made during the hours of operation of the recreational facility; shall not be subject to the condition imposed in § 8-207(2); but shall be required to follow all other laws, ordinances and restrictions imposed in the Millington Municipal Code in particular title 8 chapter 2.

(3) No permit will be issued authorizing the sale of beer under an "on-premises" permit at an establishment located within two hundred feet (200') of any real property zoned for residential use. Measurements as stated in this subsection shall be measured in a straight line from the nearest property line of the residentially zoned property to the nearest point of sale at which beer is to be sold for "on-premises" consumption at the recreational facility.

(4) The beer board may impose such additional requirements and conditions upon "on-premises" permittee and permit as it may deem necessary for the health, safety and security of the citizens of the City of Millington. (1981 Code, § 2-218, as replaced by Ord. #2022-1, Feb. 2022 ***Ch17\_01-09-23***)

**8-219. Violations.** Any violation of the provisions of this chapter or any rule or regulation of the beer board, or any violation of any law or regulation of the State of Tennessee relative to the sale, distribution, manufacture or storage of beer, shall be a Class A misdemeanor, and where the punishment is not otherwise fixed, the offender shall be punished in accordance with the provisions of the general penalty clause in this official code of the City of Millington. (1981 Code, § 2-219, as replaced by Ord. #2022-1, Feb. 2022 ***Ch17\_01-09-23***)

**8-220. Severability.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are declared to be severable. (as added by Ord. #2022-1, Feb. 2022 ***Ch17\_01-09-23***)

## TITLE 9

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

#### CHAPTER

1. PEDDLERS, SOLICITORS, TRANSIENT VENDORS, MOBILE FOOD VENDORS, AND STREET BARKERS.
2. TAXICABS.
3. [DELETED.]
4. [DELETED.]
5. PAWNBROKERS REGULATED.
6. REGULATION OF MASSAGE PARLORS, ETC.
7. REGULATION OF TOWING SERVICES, ETC.
8. CABLE TELEVISION.
9. FOOD ESTABLISHMENT SANITATION.
10. TATTOO REGULATION.
11. SEXUALLY ORIENTED BUSINESSES.

#### CHAPTER 1

### PEDDLERS, SOLICITORS, TRANSIENT VENDORS, MOBILE FOOD VENDORS, AND STREET BARKERS<sup>2</sup>

#### SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit application.
- 9-105. Permit fee.
- 9-106. Location of transient vendor sites.
- 9-107. Issuance of permit.
- 9-108. Restrictions on transient vendors, peddlers, mobile food vendors, street barkers and solicitors.

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<sup>1</sup>Municipal code references

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

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

<sup>2</sup>Municipal code reference

Privilege taxes: title 5.

- 9-109. Restrictions on advertising, etc. by transient vendors and mobile food vendors.
- 9-110. Display of permit.
- 9-111. Suspension or revocation of permit.
- 9-112. Expiration and renewal of permit.
- 9-113. Enforcement by city's police department and codes enforcement officers.
- 9-114. Use of streets and other public property.
- 9-115. Time requirements.
- 9-116. No transfer or assignment.
- 9-117. Violation and penalty.

**9-101. Definitions.** Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meanings given to them in this section:

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

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

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the city or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell any single item at a cost to the purchaser in excess of twenty-five dollars (\$25.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

(a) Has a current exemption certificate from the Internal Revenue Service issued under Section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended and delivers a copy of such certificate to the city;

(b) Is a member of United Way, Community Chest or similar "umbrella" organizations for charitable or religious organizations and provides proof of such membership to the city; or

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

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

(5) "Transient vendor"<sup>1</sup> means any person who brings into temporary premises and exhibits stocks or merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. "Transient vendor" does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

(7) "Mobile food vendor" means as any person selling food and/or drink from a mobile vehicle, including a food truck, food trailer, and ice cream truck.

(8) "Mobile food service vehicle" is defined as a vehicle that returns daily to its base of operations and is used either in the preparation or sale of food or drink products, or both.

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<sup>1</sup>State law references

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

The definition of "transient vendors" is taken from Tennessee Code Annotated, § 62-30-101(3). Note also that Tennessee Code Annotated, § 67-4-709(a)(6) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated, § 67-4-709(b).

(9) "Food truck" is defined as an enclosed motor vehicle equipped with facilities for preparing, cooking and selling various types of food and/or drink products other than exclusively ice cream and related frozen products.

(10) "Food trailer" is defined as a detached trailer that is equipped with facilities for preparation, cooking, and selling various types of food and/or drink products.

(11) "Ice cream truck" means a motor vehicle containing a commercial freezer from which a vendor sells only frozen, pre-packaged food products such as ice cream, frozen yogurt, frozen custard, flavored frozen water and similar frozen items.

(12) "Edible food products" means those products that are ready for immediate consumption, including prepackaged food and food cooked, prepared or assembled on-site. The term "edible food products" does not include fresh produce unless the produce has been packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared for consumption.

(13) "Location" means any single property parcel or any combination of contiguous parcels that are owned or controlled by a single entity or affiliated entities.

(14) "Mobile food vendor permit" means a permit issued by the city for the operation of a mobile food service vehicle valid for not more than three (3) days per permit. Permits for food trucks are valid for special events only.

(15) "Operate" means to sell food, beverages, and other permitted items from a mobile food service vehicle and includes all tenses of the word.

(16) "Operator" means any person operating or permitted to operate a mobile food service vehicle.

(17) "Permit administrator" means the city clerk who oversees the issuance, suspension and revocation of mobile food vendor permits.

(18) "Vehicle" means every device in, upon or by which any person or property may be transported or drawn upon a street, including devices moved by human power.

(19) "City sponsored special event" owners of private property, churches and non-profit organizations as described in § 9-106(3) may request city approval of a special event two (2) times each calendar year. This event shall not last for more than three (3) days and no more than three (3) mobile food vendors shall be permitted. All requests for mobile food vendor permits on private property, churches and non-profit organizations shall be accompanied by a request for special event approval signed by the property owner. (1981 Code, § 5-201, as replaced by Ord. #2005-21, Nov. 2005, and amended by Ord. #2021-21, Jan. 2022 *Ch17\_01-09-23*)

**9-102. Exemptions.** Except to the extent necessary for public safety under § 9-108(3) of this chapter, the terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to

persons selling agricultural products, who, in fact, themselves produced the products being sold, nor to minor school children who are selling merchandise or soliciting solely to benefit the school which they attend. (1981 Code, § 5-202, as replaced by Ord. #2005-21, Nov. 2005)

**9-103. Permit required.** (1) No person, firm, corporation or other entity shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes when the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or when the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church.

(2) It shall be unlawful for any person to engage in business as a mobile food vendor in the City of Millington without first obtaining a mobile food vendor's permit. Any permits, licenses, and certifications required by the Shelby County Department of Health and/or State of Tennessee for operation of the business are also required. City of Millington transient vendor licenses will not be required for those business owners residing in the State of Tennessee and/or businesses based in Tennessee. State transient vendor licenses will be required for owners of businesses residing outside of Tennessee and/or businesses based outside of Tennessee as required by the State of Tennessee. Upon being granted a mobile food vendor permit, a mobile food vendor must comply with the rules and regulations outlined herein. (1981 Code, § 5-203, as replaced by Ord. #2005-21, Nov. 2005, and amended by Ord. #2021-21, Jan. 2022 *Ch17\_01-09-23*)

**9-104. Permit application.** (1) A sworn application containing the following information, together with evidence of the applicant's status if required under § 9-101(3), shall be completed and filed with the city clerk by each applicant for a permit as a peddler, transient vendor, mobile food vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

- (a) The complete name, permanent address, telephone number and social security number or federal employer identification number of the applicant, and the complete name, permanent address, telephone number and federal employer identification number of the business or organization the applicant represents;
- (b) A brief description of the type of business and the goods to be sold;
- (c) A recent clear photograph approximately two inches square showing the head and shoulders of the applicant;



(d) The dates, times and places during which the applicant intends to do business or make solicitations;

(e) The names, permanent addresses, telephone numbers and social security numbers of each person who will make sales or solicitations within the city on behalf of or as a representative of the applicant;

(f) 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, the date and jurisdiction of conviction, and the punishment or penalty assessed therefor;

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

(h) Proof of valid automobile liability insurance in an amount required by law for operation of the applicable mobile food vendor vehicle. Failure to maintain this insurance during the time of the permit will result in an immediate revocation of the mobile food vendor permit; and.

(i) Tennessee sales tax number, if applicable.

(2) Each applicant for a transient vendor or mobile food vendor permit shall submit, along with the permit application, written consent by the property owner or authorized agent for the property owner, for the applicant to use said owner's private property for the purpose stated in the application.

(3) Due to the highly perishable nature of seafood and the severity of poisoning that can result, each transient vendor who desires to sell seafood (including all types of fish and shellfish) shall present to the city a health permit issued by the Shelby County Health Department with the application. In addition, a plan of the property showing the proposed location of the vendor shall be provided. (1981 Code, § 5-204, as replaced by Ord. #2005-21, Nov. 2005, as amended by Ord. #2021-21, Jan. 2022 ***Ch17\_01-09-23***)

**9-105. Permit fee.** Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with the application a non-refundable administrative fee of twenty-five dollars (\$25.00). The permit fee for a mobile food vendor shall be two hundred fifty dollars (\$250.00). Notwithstanding the provisions of Tennessee Code Annotated, § 67-4-719 and any other law to the contrary, such tax shall be paid prior to the first day of engaging in business. For transient vendors, state law prescribes an additional fee.<sup>1</sup> There shall be no fee for an application for a permit as a solicitor for

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<sup>1</sup>State law reference:

charitable or religious purposes or as a solicitor for subscriptions. (1981 Code, § 5-205, as replaced by Ord. #2005-21, Nov. 2005, and amended by Ord. #2021-21, Jan. 2022 *Ch17\_01-09-22*)

**9-106. Location of transient vendor and mobile food vendor sites.**

(1) Transient vendor sites shall be allowed only in B-2 (general commercial) or PC (planned commercial) zoning districts. A minimum setback of fifteen feet (15') from all public sidewalks or rights of way shall be required for the location of any transient vendor site. Setbacks from streets or rights of way shall be measured from the curb or right of way line, and setbacks from sidewalks shall be measured from the edge of the sidewalk farthest away from the curb.

(2) Location of mobile food vendors on streets and public property.

(a) Ice cream trucks are permitted to vend on public streets as long as they remain mobile and only make stops of ten (10) minutes or less at one location. The hours of operations for ice cream trucks are from 10:00 A.M. until sunset.

(b) Food trucks and food trailers are prohibited from selling food on any public street, sidewalk, alley, trail, or right-of-way or any city owned or controlled property. This includes, but is not limited to, parks and schools unless approved by the city as a part of a city permitted special event. All mobile food vendors must comply with all rules, regulations and requirements related to the city permitted special event, including but not limited to, provisions as to where the mobile food vendors will be located, how long the mobile food vendors can be present at the location, and how many and which food trucks can participate in the city permitted special event.

(c) City-wide and other publicly sponsored festivals and events such as: Goat Days, Flag City Freedom fireworks, Midsouth Airshow, and other festivals and events that may be authorized by the Millington Board of Mayor and Aldermen shall be exempt from this ordinance.

(3) Location of mobile food vendors on private property. Mobile food vendors are prohibited from conducting business on private property unless it is a city permitted special event. Property owners of properties zoned B-2 and P-C shall be permitted to hold a city permitted special event two (2) times per year. These special events shall be limited to three (3) mobile food vendors. Churches and other non-profit organizations are also permitted to hold a special

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<sup>1</sup>(...continued)

Tennessee Code Annotated, § 67-4-709(a)(6). Transient vendors shall pay a tax of fifty dollars (\$50.00) for each fourteen (14) day period in each county and/or municipality in which such vendors sell or offer to sell merchandise or for which they are issued a business license.

city permitted event two (2) times per year. These special event shall be limited to three (3) mobile food vendors, provided that all activities shall not be within one hundred feet (100') of any residential property. (1981 Code, § 5-206, as replaced by Ord. #2005-21, Nov. 2005, and amended by Ord. #2021-21, Jan. 2022 *Ch17\_01-09-23*)

**9-107. Issuance of permit.** Upon the completion of the application form, presentation of any additional required documentation and the payment of the permit fee (where required), the city clerk shall issue a permit and shall provide a copy of the permit to the applicant. Upon issuance of the permit, the city clerk shall immediately deliver a copy of the application, together with all required documentation, and a copy of the permit to the chief of police. (1981 Code, § 5-207, as replaced by Ord. #2005-21, Nov. 2005)

**9-108. Restrictions on transient vendors, mobile food vendors, peddlers, street barkers and solicitors.** (1) No transient vendor, peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

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

(b) Stand or sit in or near the entrance to any dwelling or place of business, or in any other location that may disrupt or impede pedestrian or vehicular traffic;

(c) Offer to sell goods or services, or solicit in, vehicular traffic lanes, or operate a "road block" of any kind, except as otherwise permitted by state law, or use a parked vehicle on public streets, highways or rights of way as a business stand to sell goods, wares or merchandise to occupants of other vehicles;

(d) Call attention to his business or merchandise or to his solicitation efforts by crying out, blowing a horn, ringing a bell, using any sound amplifying device, or creating other noise, 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 person proposes to sell, except that street barkers shall be allowed cry out to call attention to their business or merchandise, as applicable, during recognized parade or festival days of the city;

(e) For purposes of the activities regulated by this chapter, enter in or upon any premises or attempt to enter in or upon any premises where a sign or placard bearing the notice "Peddlers or Solicitors Prohibited", or similar language carrying the same meaning, is located, or where the owner of said premises requests that the transient vendor, peddler, street barker, solicitor, solicitor for charitable purposes,

or solicitor for subscriptions leave his or her property. Violation of this sub-section (5) shall constitute trespassing as well as a violation of this chapter.

(2) All mobile food vendors shall: (a) Maintain litter receptacle/s of sufficient size to accept the litter being generated by the sales from the vendor's mobile food vehicle at the point of sales. The receptacle must be maintained in such a manner as to preclude an overflow of refuse. Each mobile food vendor shall pick up litter which is associated with the vendor's sale in the vicinity of the vendor's mobile food vehicle prior to departing a sales location. A pattern of leaving excessive litter caused by product packaging shall be basis for suspension or revocation of the mobile food vendor license.

(b) Mobile food vendors shall be limited to edibles and hot and cold beverages containing no alcohol. The sale of non-food or drink items from mobile food vendor vehicles shall be limited to merchandise displaying the mobile food company logo and/or branding.

(c) There shall be no benches, tables, chairs or other furniture which may be used for eating or sitting provided by or associated with a mobile food vendor vehicle.

(d) All food trucks and food trailers must be equipped with a fire extinguisher that is certified annually by a licensed company. Additionally, food trucks and food trailers that produce grease laden vapors (i.e., units with deep fat fryers or flat-top griddles) must have a fire suppression system certified bi-annually by a licensed company.

(e) Mobile food vendor vehicles shall not obstruct or impede pedestrian or vehicular traffic, access to driveways, and sight distance for drivers. Mobile food vendor vehicles shall serve pedestrians only; drive-through or drive-in services are hereby prohibited.

(f) Other than ice cream trucks being able to play a song associated with its business at a reasonable level of sound, no mobile food vendors shall sound any device which produces an offensive or loud noise to attract customers, and mobile food vendors shall not use a public-address system on the vehicle to broadcast and advertise products.

(g) Signs which are permanently affixed to the mobile food vendor vehicle shall extend no more than six inches (6") from the vehicle. Except as stated herein, all signs shall be attached or painted on the mobile food vendor vehicle. Electronic signs are prohibited as are signs that flash, reflect motion pictures, emit smoke or vapor, or produce any rotation, motion or movement. Each food truck or food trailer is permitted one sandwich board type sign located within ten feet (10') of the applicable food truck or food trailer for advertisement purposes while the food truck or food trailer is open for business. Such sandwich board sign shall be no more than forty-eight inches (48") high and contain no more than seven (7) square feet.

(h) All mobile food vendors shall be located at least three hundred feet (300') from any eating establishment and one hundred feet (100') from any retail store that sells food unless both the owners of the eating establishment and retail stores and their leaseholders grant written notarized permission.

(i) Mobile food vendors operating at a location for a duration of more than three (3) hours shall provide a notarized permission statement from the property owners to have access to a flushable restroom with hand washing facilities within three hundred feet (300') for the duration of the sales. (1981 Code, § 5-208, as replaced by Ord. #2005-21, Nov. 2005, and amended by Ord. #2021-21, Jan. 2022 *Ch17\_01-09-23*)

**9-109. Restrictions on advertising, etc. by transient vendors and mobile food vendors.** A transient vendor or mobile food vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's or manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (1981 Code, § 5-209, as replaced by Ord. #2005-21, Nov. 2005, and amended by Ord. #2021-21, Jan. 2022 *Ch17\_01-09-23*)

**9-110. Display of permit.** Each peddler, street barker, transient vendor, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations and shall be required to display the same to any police officer or codes enforcement officer upon demand or to any person solicited, upon such person's request. (1981 Code, § 5-210, as replaced by Ord. #2005-21, Nov. 2005)

**9-111. Suspension or revocation of permit.** (1) The permit issued to any person or organization under this chapter may be suspended or revoked for any of the following causes:

(a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application or other documentation required to be provided to the city along with the application; or

(b) Any violation of this chapter.

(2) The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in § 9-111(1) above. The city clerk shall give written notice to the application of the hearing on proposed suspension or revocation of a permit issued under this chapter, which notice shall set forth specifically the grounds of complaint and the date, time and place of the hearing.

Such notice shall be mailed to the permit holder at his or her 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 hearing. (1981 Code, § 5-211, as replaced by Ord. #2005-21, Nov. 2005)

**9-112. Expiration and renewal of permit.** (1) The permits of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The permit of any peddler, solicitor, or transient vendor who for any reason is not subject to the Tennessee privilege tax shall be valid for a period of six (6) months from the date of issuance. The permits of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permits of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days from the date of issuance. Any permits for mobile food vending shall expire three (3) days after the permit is issued. Except as provided in subsection (2) below, and provided they are in compliance with this chapter, holders of expired permits may apply for issuance of a new permit.

(2) No permit holder whose permit has been revoked by the board of mayor and aldermen shall make application for a new permit until a period of at least six (6) months has elapsed since the last revocation.

(3) An application for renewal of a permit issued under this chapter shall be made substantially in the same form as an original application, provided that only so much of the application shall be completed as is necessary to identify the renewal applicant and to show the same information required in the initial application as to any conditions or personnel that have changed since the last application was filed. (1981 Code, § 5-212, as replaced by Ord. #2005-21, Nov. 2005, and amended by Ord. #2021-21, Jan. 2022 *Ch17\_01-09-23*)

**9-113. Enforcement by city's police department and codes enforcement officers.** The provisions of this chapter shall be enforced by the city's police department and codes enforcement officers. (1981 Code, § 5-213, as replaced by Ord. #2005-21, Nov. 2005)

**9-114. Use of streets and other public property.** No permit holder shall have any exclusive right to any location on public streets or other public property, nor shall any permit holder be permitted a stationary location thereon. No permit holder shall 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, or codes enforcement officer exercised in good faith shall be deemed conclusive as to whether the area is congested and

the public impeded or inconvenienced by the location of a permit holder. (as added by Ord. #2005-21, Nov. 2005)

**9-115. Time requirements.** No transient vendor shall keep his business open, and no peddler or solicitor shall solicit business after 8:00 P.M. and prior to 8:00 A.M. (as added by Ord. #2005-21, Nov. 2005)

**9-116. No transfer or assignment.** No permit issued under the provisions of this chapter shall be transferred or assigned, and no such permit shall be used by any person other than the one to whom it was issued. (as added by Ord. #2005-21, Nov. 2005)

**9-117. Violation and penalty.** Violation of any provision of this chapter shall be a misdemeanor, and such violation shall be punishable by a fine of up to \$50.00. Each day a violation occurs shall constitute a separate offense. In addition to any fine that may be imposed, the permit of any permit holder convicted of violation of this chapter shall be cancelled and revoked by the court. (as added by Ord. #2005-21, Nov. 2005)

## CHAPTER 2

### TAXICABS

#### SECTION

- 9-201. Definitions.
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**9-201. Definitions.** The word "taxicab" as used in this chapter means any motor vehicle used for the purpose of transporting persons within the city for hire and not operating upon a fixed route or schedule, including taxicabs, limousines and sedans as defined in Tennessee Code Annotated, § 7-51-1007. This chapter shall not apply to motor vehicles used principally for funerals, weddings and other similar operations. (1981 Code, § 5-301, as replaced by Ord. #2005-11, June 2005)

**9-202. Taxicab franchise and privilege license required.** It shall be unlawful for any person to engage in the taxicab business in the City of Millington unless such person has first obtained a taxicab franchise from the city and has a currently effective privilege license. For purposes of this chapter, "person" shall mean and include individuals, corporations, limited liability companies, partnerships and other legal entities. (1981 Code, § 5-302, as replaced by Ord. #2005-11, June 2005)



**9-203. Application.** An application for a taxicab franchise shall be made on a form provided by, and shall be filed with, the city clerk. The applicant shall provide the following information:

(1) The applicant's full legal name, address(es) for the three (3) years preceding the date of the application, and current telephone number;

(2) The applicant's education history and the applicant's employment history;

(3) The name, including any trade name, under which the applicant does or proposes to operate the business, and the address of the proposed place of business;

(4) The applicant's social security number or, if none, employer identification number;

(5) The number of taxicabs the applicant desires to operate, together with a description of the vehicles to be used, including year, make and model of each vehicle and a copy of the certificate of title or lawful evidence thereof to each vehicle;

(6) The color scheme and a photograph or drawing of the insignia or other lettering and marks to be used on the vehicles;

(7) A statement whether the applicant has been convicted of a felony or any crime involving moral turpitude within the 10 years prior to the date of the application, and if so, identification of the type and date of the conviction and the jurisdiction in which the conviction occurred;

(8) A statement whether the applicant has been convicted of any violation of the Millington Municipal Code, and if so, identification of the type and date of the conviction;

(9) A statement whether the applicant has previously owned or operated a taxicab business in any jurisdiction, and whether the applicant has held a taxicab franchise, permit or license from any jurisdiction within the last ten years, and if so, the name of the jurisdiction, the date of issuance of the franchise, permit or license; whether said franchise, permit or license is in effect as of the date of the application, and if it is not, the date and circumstances of its termination, suspension or revocation;

(10) Two clear frontal photographs of the applicant, at least 2" by 2";

(11) A sworn statement that the information contained in and provided with the application is true and correct to the best of the applicant's knowledge; and

(12) A sworn statement that the applicant has read this taxicab chapter in its entirety and agrees to comply with this chapter and with all applicable federal, state and local laws; and

(13) Proof of financial responsibility and proof of insurance coverage as required by this chapter; and

(14) If the taxicab business is to be owned by a corporation, limited liability company or other similar legal entity, each owner of a majority interest in such entity, and each director and officer of such entity shall be considered

an applicant, and shall provide the information required by this chapter. If the taxicab business is to be owned by a general partnership, each partner shall be considered an applicant and shall provide the information required by this chapter. (1981 Code, § 5-303, as replaced by Ord. #2005-11, June 2005)

**9-204. Investigation and public hearing.** Upon receipt of a completed franchise application and the required application fee, the city clerk shall provide a copy of the application to the chief of police, shall publish a notice of public hearing on the application and shall deliver a copy of the application to the board of mayor and aldermen. The chief of police shall cause a background investigation of the applicant to be conducted within ten (10) days and shall deliver the report of such investigation to the board and, if requested, to the applicant. The board of mayor and aldermen shall hold a public hearing at the place and time stated in the published notice, at which time the applicant must be present, and the applicant and citizens for and against the application shall have the right to be heard. (1981 Code, § 5-304, as replaced by Ord. #2005-11, June 2005)

**9-205. Award of franchise.** After the hearing, the board shall, by resolution, award a franchise if it deems such award to be appropriate and in the best interest of the city. In deciding whether to grant the franchise, the board shall consider, in addition to matters set out in the application and the police investigation of the applicant, the public need for the proposed service, the traffic, safety and parking impact of the proposed service, whether the proposed business location is in compliance with zoning requirements, and such other matters as the board deems appropriate. Upon award of an original or renewal franchise, the city clerk shall issue a franchise certificate to the applicant. Said certificate shall show the name and address of the franchise holder and if different, the address of the taxicab business, the date of issuance and the date of expiration. Franchises shall be issued in the name of a natural person, with the name of the legal entity which owns the business stated thereon, if applicable. (1981 Code, § 5-305, as replaced by Ord. #2005-11, June 2005)

**9-206. Renewal.** The term of all franchises shall be one (1) year, and each franchise shall be renewable annually, upon the anniversary of its issuance. A renewal franchise may be granted upon the written application of the franchise holder filed within thirty (30) days prior to the expiration date of the then-current franchise. The franchise renewal fee shall be paid upon filing of the renewal application. In the renewal application, the applicant shall, under oath, either state that all information and documentation previously provided to the city in or with the original application or subsequent thereto has not changed, or shall identify and provide the information and/or documentation that has changed.

Before any franchise may be renewed, the chief of police shall update the investigation of the franchisee from the date of the prior original or renewal application, which investigation shall include a determination whether the applicant is in compliance with this chapter. Said investigation shall be conducted within ten (10) days. If there is no information that would indicate a change in the status or behavior of the franchise holder that would be the cause for denial of an original franchise application, the chief of police shall so notify the city clerk and the applicant, and provided it is determined the applicant is otherwise in compliance with this chapter, the city clerk shall issue the renewal franchise.

If either the chief of police or the city clerk receives information that reasonably indicates the renewal application should be denied, including non-compliance with this chapter, he or she shall notify the board of mayor and aldermen and the applicant. Upon receipt of such notice, the board shall set a hearing at its next regular meeting on the renewal application and shall give public notice thereof. The franchise holder shall have the right to be heard at such hearing. If the next regular meeting of the board will be held after the expiration date of the existing franchise, the franchise shall remain in effect until renewal is considered by the board.

After the hearing, the board shall, by resolution, award or deny the renewal franchise as it deems to be appropriate and in the best interest of the city. (1981 Code, § 5-306, as replaced by Ord. #2005-11, June 2005)

**9-207. Franchise application and franchise fees.** The following fees shall be paid to the city in connection with the grant of taxicab franchises:

- (1) An initial application and investigation fee in the amount of \$150.00, which fee shall be paid upon submission of the application;
  - (2) A annual franchise permit fee, which shall be paid upon grant of the initial franchise and upon each annual renewal of the franchise, in the amount of \$100.00; and
  - (3) An annual permit fee for each driver in the amount of \$10.00.
- (1981 Code, § 5-307, as replaced by Ord. #2005-11, June 2005)

**9-208. Proof of financial responsibility/liability insurance.** No taxicab franchise shall be issued or continue in effect unless there is in full force and effect proof of financial responsibility for each vehicle authorized in an amount in accordance with the minimum limits set forth in Tennessee Code Annotated, § 55-12-102 or any successor statute. In addition, each franchisee shall maintain liability insurance on all vehicles in the amount of \$100,000 per person and \$300,000 per incident for personal injury and \$50,000 for property damage, and proof of such insurance coverage and any changes or renewals thereof shall have been delivered to the city. Any such policy shall provide that it will not be cancelled without prior notice to the city. (1981 Code, § 5-308, as replaced by Ord. #2005-11, June 2005)

**9-209. Location of taxicab business.** All taxicab business offices, off-duty parking and storage and garages or other places where vehicles are repaired or maintained shall be located in B2, PC or industrial zoning districts of the city. (1981 Code, § 5-309, as replaced by Ord. #2005-11, June 2005)

**9-210. Report of additional taxicabs/condition of taxicabs.** Each franchise holder shall notify the city within ten days, providing the information required by this chapter, if it puts any taxicabs into service that have not previously been identified to the city or for which the information required by this chapter has been provided to the city. It is unlawful to operate of any taxicab, whether an addition or replacement vehicle, without providing such information to the city.

It shall be unlawful to operate any taxicab in the City of Millington unless such taxicab is kept in such condition and repair as is reasonably necessary to provide for the safety of passengers, the public and the continuous satisfactory operation of the taxicab. All taxicabs operated within the city shall be kept at all times in a reasonably clean and sanitary condition. If any taxicab operated within the city appears to be unsafe, any city police officer who observes such condition may inspect the taxicab and notify the city clerk, giving the details of the unsafe condition, and the city clerk shall send a notice requiring the franchise holder to provide proof that such unsafe condition has been remedied. (1981 Code, § 5-310, as replaced by Ord. #2005-11, June 2005)

**9-211. Current motor vehicle license required.** Each taxicab operated within the city shall at all times maintain a current motor vehicle license and shall provide the city with written evidence of the existence and license number thereof. (1981 Code, § 5-311, as replaced by Ord. #2005-11, June 2005)

**9-212. Display of company identification.** All taxicabs operating under a franchise shall display on their exterior, in a manner legible from a distance of 100 feet, the name of the taxicab franchise under which they are operated, the business's insignia and colors. (1981 Code, § 5-312, as replaced by Ord. #2005-11, June 2005)

**9-213. Parking restricted/solicitation prohibited.** It shall be unlawful for any taxicab to remain parked on the street, other than in spaces specifically designated for the use of taxicabs, longer than reasonably necessary to pick up or discharge passengers. Such stops shall be made in a manner that will not interfere with or obstruct other traffic or pedestrians. It shall be unlawful for any taxicab driver to indiscriminately solicit passengers or cruise upon the streets of the city for the purpose of obtaining passengers. (1981 Code, § 5-313, as replaced by Ord. #2005-11, June 2005)

**9-214. Franchise certificate, driver's permit and rates to be posted.** A true, correct and current copy of each franchise certificate and each driver's permit, and a statement of the applicable rates charged to passengers, including any set charges for travel to places such as airports, train or bus stations, etc. shall be conspicuously posted in each taxicab in a location easily visible to passengers. (1981 Code, § 5-314, as replaced by Ord. #2005-11, June 2005)

**9-215. Requirements for transfer of franchise.** No taxicab franchise shall be transferred or assigned by the holder thereof, nor may the ownership modified in any way, without the prior consent of the board of mayor and aldermen in each case. Such consent may be conditioned upon the transferee's approval for a taxicab franchise as provided in this chapter. (1981 Code, § 5-315, as replaced by Ord. #2005-11, June 2005)

**9-216. No use for illegal purpose/unlawful driver conduct.** No taxicab shall be used for or in the commission of any illegal act, business or purpose. 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 blow the vehicle's horn unnecessarily, or otherwise to disturb the peace and quiet of the city in any way. (as added by Ord. #2005-11, June 2005)

**9-217. Revocation of franchise.** The board of mayor and aldermen shall have the right to revoke any taxicab franchise, upon a hearing held after ten (10) days notice to the franchise holder, for any one or more of the following reasons:

(1) Information or documentation provided to the city in an original or renewal franchise application is determined to have been untrue or misleading in any material respect;

(2) Proof that the franchise holder has discontinued business within the city;

(3) Violation of or noncompliance with this chapter, as it may be amended from time to time, by the franchise holder or its business, or violation of or noncompliance with any other law of the State of Tennessee or the City of Millington relevant to the franchise or operation of the business of the franchise, including delinquency in any taxes due to the city; or

(4) The franchise holder's conviction of a felony or a crime of moral turpitude. (as added by Ord. #2005-11, June 2005)

**9-218. License and permit required for drivers.** No person, including a franchise holder, shall drive a taxicab except under the following conditions:

- (1) The driver has a current valid Tennessee special chauffeur's license;
- (2) A true and correct copy of such license has been delivered to the city clerk, along with notice of the name and address of the taxicab franchise for which the driver is working;
- (3) The driver has submitted an application to the city clerk for a driver's permit, which application shall contain the driver's full legal name, residence addresses for the last three (3) years and social security number, and in which the driver shall state under oath:
  - (a) That he or she is not addicted to the use of drugs or intoxicating liquor; and
  - (b) That he or she has not been convicted of a felony, a crime of moral turpitude, drunk driving or driving under the influence of an intoxicant or drug within the last ten (10) years.
- (4) An application fee in the amount of \$25.00 has been paid to the city.

Upon receipt of the application and the application fee, the city clerk shall issue a taxicab driver's permit to the applicant, unless the city clerk determines, after investigation, that information or documentation submitted with the application is untrue or incorrect in any material respect, or that the applicant is not a person suitable to drive a taxicab in the city. Each driver's permit shall be valid for one (1) year from the date of issuance, and may be renewed by certification to the city clerk that the permit holder has fully complied with the provisions of this chapter, and by providing such other information as may be required by the city clerk for the orderly administration of this chapter. (as added by Ord. #2005-11, June 2005)

**9-219. Revocation or suspension of driver's permit.** The board of mayor and aldermen, after a public hearing at which the applicant for an original or renewal driver's permit shall have the right to be heard, may revoke or suspend any taxicab driver's permit. A driver's permit shall be automatically terminated upon the expiration or revocation of the driver's state special chauffeur's license or upon the driver's conviction of any felony, crime of moral turpitude, drunk driving or driving under the influence of any intoxicant or drug, or upon conviction for reckless driving. (as added by Ord. #2005-11, June 2005)

**9-220. Appeal.** Appeal from denial of an original or renewal taxicab franchise, revocation of a taxicab franchise, denial of an original or renewal driver's permit or revocation of a driver's permit shall be made under the laws of the State of Tennessee, to a court sitting in Shelby County, Tennessee. (as added by Ord. #2005-11, June 2005)

**9-221. Violation a misdemeanor/penalty.** Violation of this chapter shall be a misdemeanor, and there shall be a fine of \$50.00 for each violation. Each day that a violation continues shall constitute a separate violation. (as added by Ord. #2005-11, June 2005)

**9-222. Amendment of this chapter.** The board of mayor and aldermen may amend or revise this chapter, in whole or in part, at any time and from time to time, as it sees fit. (as added by Ord. #2005-11, June 2005)

**CHAPTER 3**

**[DELETED]**

(as deleted by Ord. #2011-6, June 2011)



**CHAPTER 4**

**[DELETED]**

(as deleted by Ord. #2005-21, Nov. 2005)

## CHAPTER 5

### PAWNBROKERS REGULATED

#### SECTION

- 9-501. Pawnbroker defined.
- 9-502. License required.
- 9-503. Record of pawns to be kept, etc.
- 9-504. Additional information to be given.
- 9-505. Pledger to sign and fingerprint card.
- 9-506. Cards to be of separate types and colors; pawnbrokers to fill out proper type.
- 9-507. Cards to be delivered to chief of police.
- 9-508. Contents of records required on watches.
- 9-509. Contents of records required on jewelry.
- 9-510. Contents of records required on clothing.
- 9-511. Contents of records required on other merchandise.
- 9-512. Information required on back of cards.
- 9-513. Pawned goods to be retained not less than 48 hours.
- 9-514. Pawn business to be licensed--transfer of license.
- 9-515. Sign--requirements.
- 9-516. Unacceptable pawns--stolen goods.
- 9-517. Accepting pawn of certain articles forbidden.
- 9-518. Restrictions on interest and charges - allowable fees.
- 9-519. Business hours.
- 9-520. Broker prohibited from purchasing pledge.
- 9-521. Violations.

**9-501. Pawnbroker defined.** For the purpose of this chapter, a pawnbroker shall be deemed to be any person, firm, or corporation whose business or occupation is to take or receive by way of pledge, pawn, or exchange any goods, wares or merchandise, or any kind of personal property whatsoever. (1981 Code, § 5-601)

**9-502. License required.** It shall be unlawful for any person, firm, or corporation to establish or conduct a business of pawnbroker unless there has first been secured a license to conduct such business in the city, in accordance with the regulations hereinafter set forth. (1981 Code, § 5-602)

**9-503. Record of pawns to be kept, etc.** Every pawnbroker shall keep a book which shall be made with a stub, which shall be numbered consecutively and shall correspond in all essential particulars to the detachable pawn ticket attached thereto. The pawnbroker shall, at the time of making any loan, enter upon the stub, as well as the pawn ticket, a clear and accurate description,

written in ink in the English language, of the property pawned, the date and amount of money lent and when due, the name and residence address of the pawnor and, if the article bears a serial number, the serial number. The pawnor shall sign the stub with his residence address and receive the detached pawn ticket, which shall be signed by the pawnbroker. (1981 Code, § 5-603)

**9-504. Additional information to be given.** In addition to the book provided for in the immediately preceding section, every person licensed as a pawnbroker, at the time of taking or receiving any article in the business for which he is licensed, shall place the description of the article or the thing pledged, received or taken, upon the front side of a blank form card, three inches by five inches in size, which card shall be provided by the licensee. The description to be given of such article shall be such description as may be called for by the blank form on such card. The pawnbroker shall fill in such other blank spaces as may appear on the front side of such blank form card with the data as is requested by these blank spaces. (1981 Code, § 5-604)

**9-505. Pledger to sign and fingerprint card.** A separate card shall be provided and used for each such article pledged, received or taken. On the back of each blank form card there shall be written by the pledger, in his own handwriting, his name and address, and such pledger shall also reproduce thereon his right thumbprint at the place indicated therefor on the back of such card. In the event the right thumb is amputated, then such other fingerprint as required by the pawnbroker shall be taken and such fingerprint fully described and designated upon the card. This thumbprint shall be reproduced and taken in the usually approved manner and shall not be blurred or obliterated. The pawnbroker shall then fill in a description of the party so pledging or leaving any such article as the remaining spaces on the back side of such blank form card may call for. (1981 Code, § 5-605)

**9-506. Cards to be of separate types and colors; pawnbrokers to fill out proper type.** The blank cards provided for in this chapter shall be four separate types; one type for watches, which card shall be blue in color; one type for jewelry, which card shall be yellow in color; one type for clothing, which card shall be pink in color; one type for miscellaneous articles, such as adding machines, cash registers, check protectors, typewriters, dictaphones, shotguns, rifles, and musical instruments, which card shall be white in color. The pawnbroker shall fill in the proper type of card for each article pledged or taken. (1981 Code, § 5-606)

**9-507. Cards to be delivered to chief of police.** Every licensed pawnbroker shall deliver to the chief of police every day before the hour of twelve noon, all of such cards describing the goods, articles, things pledged, pawned, taken or received during the preceding day and containing the description, signature and right thumbprint of the person so pledging or

pawning or giving same, unless the information required to be delivered to the chief of police by this chapter 5 is transmitted electronically by such time to the Shelby County Pawn Detail. (1981 Code, § 5-607, as amended by Ord. #2006-12, Dec. 2006)

**9-508. Contents of records required on watches.** The front side of the type of card to be provided and used for watches shall be as follows:

Make \_\_\_\_\_ Style \_\_\_\_\_  
 Initials or Inscriptions \_\_\_\_\_  
 Purchase Price \_\_\_\_\_ Amount Loaned \_\_\_\_\_  
 Received \_\_\_\_\_ Date \_\_\_\_\_  
 Dealer's Name \_\_\_\_\_  
 Location \_\_\_\_\_  
 Dealer's License Number \_\_\_\_\_ Date Reported \_\_\_\_\_  
 (1981 Code, § 5-608)

**9-509. Contents of records required on jewelry.** The front side of the type of card to be provided and used for jewelry and diamonds shall be as follows:

Article \_\_\_\_\_ Material \_\_\_\_\_  
 Inscription, etc. \_\_\_\_\_ Setting and Design \_\_\_\_\_  
 \_\_\_\_\_ No. \_\_\_\_\_ Kind \_\_\_\_\_ Size \_\_\_\_\_  
 Purchase Price \_\_\_\_\_ Amount Loaned \_\_\_\_\_  
 Dealer's Name \_\_\_\_\_  
 Location \_\_\_\_\_  
 Dealer's License Number \_\_\_\_\_ Date Reported \_\_\_\_\_  
 (1981 Code, § 5-609)

**9-510. Contents of records required on clothing.** The front side of the type of card to be provided and used for clothing shall be as follows:

Article \_\_\_\_\_ Color \_\_\_\_\_  
 Maker's Name \_\_\_\_\_ Material \_\_\_\_\_  
 Initials, name and cleaner's mark \_\_\_\_\_ Size \_\_\_\_\_  
 Purchase Price \_\_\_\_\_ Amount Loaned \_\_\_\_\_  
 Received \_\_\_\_\_ Date \_\_\_\_\_ A.M. \_\_\_ P.M.  
 Dealer's Name \_\_\_\_\_  
 Location \_\_\_\_\_  
 Dealer's Ticket No. \_\_\_\_\_ Date Reported \_\_\_\_\_  
 (1981 Code, § 5-610)

**9-511. Contents of records required on other merchandise.** The front side of the type of card to be provided and used for miscellaneous articles shall be as follows:

Article \_\_\_\_\_ Serial Number \_\_\_\_\_  
 Maker's Name \_\_\_\_\_ Color, Style, Design \_\_\_\_\_  
 Marks and further description \_\_\_\_\_  
 Purchase Price \_\_\_\_\_ Amount Loaned \_\_\_\_\_  
 Received \_\_\_\_\_ Date \_\_\_\_\_ A.M. \_\_\_\_\_ P.M.  
 Dealer's Name \_\_\_\_\_  
 Location \_\_\_\_\_  
 Dealer's Ticket No. \_\_\_\_\_ Date Reported \_\_\_\_\_  
 (1981 Code, § 5-611)

**9-512. Information required on back of cards.** The back side of all types of cards required by this chapter to be provided and used shall be as follows:

Signature \_\_\_\_\_  
 Address \_\_\_\_\_  
 Description of customer. To be filled out by dealer.  
 \_\_\_\_\_ Sex \_\_\_\_\_ Age \_\_\_\_\_ Height \_\_\_\_\_ Ft. \_\_\_\_ In. \_\_\_\_ Weight \_\_\_\_\_ Lbs.  
 Race or Nationality \_\_\_\_\_ Clothing \_\_\_\_\_  
 Complexion \_\_\_\_\_

Right Thumb

(1981 Code, § 5-612)

**9-513. Pawned goods to be retained not less than 48 hours.** It shall be unlawful for any pawnbroker to sell, exchange, barter or remove from their place of business, or permit to be redeemed, any of the goods pledged, pawned, or deposited by, to or with them for the period of forty-eight hours after making of the report as provided for in § 9-507 of this chapter. (1981 Code, § 5-613)

**9-514. Pawn business to be licensed--transfer of license.** No person licensed as a pawnbroker shall, by virtue of one license, keep more than one house, shop or place for such business of pawnbroker; provided, however, that such license may be transferred from one place to another with the consent of the chief of police. (1981 Code, § 5-614)

**9-515. Sign--requirements.** Every person licensed under this article shall cause his name with the words "Licensed Pawnbrokers," and no other

words or symbols, to be printed or painted, in large, legible characters, and placed over the outside or door, or entrance of his shop, office or place of business. No other sign or marker of any description shall be permitted upon the front of such building. (1981 Code, § 5-615)

**9-516. Unacceptable pawns--stolen goods.** No person so licensed shall take any article in pawn, pledge, or as security from any person under legal age, nor from any person appearing to be intoxicated, nor from any person known to such pawnbroker to be a thief, or to have been convicted of larceny, burglary, robbery, or housebreaking, without first notifying a police officer. When any person is found to be the owner of stolen property, which has been pawned, such property shall be returned to the owner thereof, without the payment of the amount advanced by the pawnbroker thereon, or any costs or charges of any kind, which the pawnbroker may have placed upon same. (1981 Code, § 5-616)

**9-517. Accepting pawn of certain articles forbidden.** No licensed pawnbroker shall buy, sell or take for pledge, pawn or security any razor except safety razor, any dirk, bowie knife or other knife of like kind or size, or any other knife with any blade over two and one-half (2-1/2) inches long, sword cane, slingshot, black jack, brass knuckles or Spanish stiletto. (1981 Code, § 5-617, modified)

**9-518. Restrictions on interest and charges - allowable fees.** No pawnbroker shall demand or receive an effective rate of interest greater than twenty-four percent (24%) per annum, and no other charge of any description, or for any purpose whatsoever shall be made by the pawnbroker, except that the pawnbroker may charge, contract for and receive a reasonable fee for investigating the security or title, storage and insuring the security, closing the loan, making daily reports to local law enforcement officers and for other expenses and losses of every nature whatsoever and for all other services; it is further provided that such fee when made and collected shall not be deemed interest for any purpose of law. (1981 Code, § 5-618)

**9-519. Business hours.** No pawnbroker shall keep open his place of business before eight (8) o'clock, A.M., or after six (6) o'clock, P.M., of any day during the months of June, July, August and September, and not after seven (7) o'clock, p.M., of any day during the other months of the year, provided that on Saturday of each week and the last fifteen (15) days of December of each year it shall be lawful for pawnbrokers to keep open until nine (9) o'clock, p.M. Pawnbrokers shall keep their places of business closed all day Sunday through the entire year. (1981 Code, § 5-619)

**9-520. Broker prohibited from purchasing pledge.** No pawnbroker shall, in the conduct of such business, purchase or buy any personal property whatsoever. (1981 Code, § 5-621)

**9-521. Violations.** Every person, firm, or corporation, their agents or employees, who shall violate any of the provisions of this chapter shall upon conviction thereof, be deemed guilty of a misdemeanor and shall be fined in accordance with the terms of the general penalty clause in this code of ordinances. Upon such conviction, the license of such person, firm or corporation shall be revoked. (1981 Code, § 5-622)

## CHAPTER 6

### REGULATION OF MASSAGE PARLORS, ETC.

#### SECTION

- 9-601. Regulations for massage parlors established.
- 9-602. Definition of terms.
- 9-603. Permit required, etc.
- 9-604. Application for permit.
- 9-605. Investigation of applicant.
- 9-606. Standards for issuance of permit.
- 9-607. Standards applicable to employees.
- 9-608. Conditions of permit.
- 9-609. Appeal of denial.
- 9-610. Health regulations.
- 9-611. Hours of operation.
- 9-612. Clothing regulations.
- 9-613. Method of operation.
- 9-614. Keeping of records.
- 9-615. Advertising.
- 9-616. Supervision.
- 9-617. Persons under age eighteen prohibited on premises.
- 9-618. Alcoholic beverages prohibited on premises.
- 9-619. Inspection required.
- 9-620. Rules and regulations of the chief of police.
- 9-621. Application of chapter to existing business.
- 9-622. Violations.

**9-601. Regulations for massage parlors established.** There is hereby established provisions for the operation of massage institutes, massage operators, bath houses and other similar business establishments within the corporate limits, as follows. (1981 Code, § 5-701)

**9-602. Definition of terms.** (1) “Massage institute.” For the purpose of this chapter, a massage institute shall be defined as any place in which massage operators are employed to give treatment, but shall not include a hospital or sanitarium or any establishment which is otherwise regulated by law.

(2) “Massage operator.” For the purpose of this chapter, a massage operator shall be defined as a person who applies manual or mechanical massage or similar treatment to the human body, but shall not include a doctor or nurse or any type of person who is otherwise regulated by law.

(3) “Bath house.” For the purpose of this chapter, a bath house shall be defined as any place in which persons are employed to administer baths to



others, but shall not include a hospital or sanitarium or any establishment which is otherwise regulated by law.

(4) "Bath." For the purpose of this chapter, a bath shall be defined as a washing, soaking, or cleansing of all or part of the human body.

(5) "Bather." For the purpose of this chapter, a bather shall be defined as one employed to administer a bath to the human body of another at a bath house, except that it shall not include a doctor, nurse, or any other person who is otherwise regulated by law. (1981 Code, § 5-702)

**9-603. Permit required, etc.** No person shall act as a massage operator or bather or conduct a massage institute or bath house or other similar business establishment in the City of Millington without first obtaining a permit as hereinafter provided from the chief of police.

The annual permit fee for each massage institute or bath house shall be five dollars (\$5.00) and for each operator two dollars (\$2.00) and the permits so issued shall be good for a period of twelve (12) months from the date of their issuance. (1981 Code, § 5-703)

**9-604. Application for permit.** Application for permit issued hereunder shall be made upon blank forms prepared and made available by the chief of police, and shall state:

(1) The full name, residence, present and previous occupations of the applicant.

(2) Whether the person signing the application is a citizen of the United States.

(3) A specific description of the location of the principal place of business of the applicant.

(4) The number of years of experience the applicant has as a massage operator or bather or the operator of a massage institute or bath house or in related fields.

(5) A complete list of the names and residence addresses of all employees in the business and the name and residence addresses of the manager or other person principally in charge of the operation of the business.

(6) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(7) The names and addresses of three adults who will serve as character references. These references must be persons other than relatives and business associates.

(8) Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the city. (1981 Code, § 5-704)

**9-605. Investigation of applicant.** Within ten (10) days after receipt of an application as provided for herein, the chief of police shall cause an investigation to be made of the applicant and his proposed operation. (1981 Code, § 5-705)

**9-606. Standards for issuance of permit.** The chief of police shall issue a permit thereunder when he finds:

(1) That applicant's application for a permit has been properly submitted;

(2) That applicant has never been convicted of a felony or any crime involving sexual misbehavior;

(3) That the operation, as proposed by the applicant, if permitted, would comply with all applicable laws, including but not limited to, the city's building, zoning and health regulations;

(4) That the applicant has not knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith;

(5) That the applicant has not had a similar permit or license denied, revoked, or suspended for any of the above causes by the city, or any other state or local agency;

(6) That the applicant is a natural born or fully naturalized citizen of the United States. (1981 Code, § 5-706)

**9-607. Standards applicable to employees.** All employees of any person having or applying for a permit hereunder shall meet the requirements of never having been convicted of any felony or any crime involving sexual misbehavior. It shall be further required that any person having a permit hereunder shall keep on file with the police department a list of those persons currently employed by him in his massage institute or bath house. (1981 Code, § 5-707)

**9-608. Conditions of permit.** The following conditions shall apply to all permits:

(1) Transferability. Permits issued hereunder shall not be transferable.

(2) Revocation and suspension. Permits issued hereunder shall be subject to revocation or suspension by the chief of police for violation of any of the provisions of this chapter, or of the rules and regulations issued hereunder, or misconduct by the permittee or his employees, after reasonable notice and an opportunity to be heard had been given the permittee. The chief of police shall immediately notify any permittee in writing of such suspension or revocation.

(3) Renewal of permit. Each permit shall expire on July 1 of each year, except that a first permit shall expire on the second next ensuing July 1. Permits may be renewed. In processing a renewal application, the police chief

shall consider all the elements and standards contained herein in determining whether or not to renew a permit. An unrevoked permit may be renewed for one year on written application to the police chief made at least one month before its expiration date and accompanied by the required fee, said renewal fee being the same amount as the original permit fee. (1981 Code, § 5-708)

**9-609. Appeal of denial.** Any applicant who was denied a permit hereunder may request a hearing with appropriate police department officials to discuss said denial, that hearing to be held within ten (10) days of the denial. Within ten (10) days after that hearing, an applicant may seek further relief by appealing said denial to the board of mayor and aldermen of the City of Millington. Notice of appeals from said police department hearings to the board of mayor and aldermen of the City of Millington must be filed within said ten (10) days; otherwise the action of the police department shall be deemed and considered to be final. (1981 Code, § 5-709)

**9-610. Health regulations.** (1) All persons employed at a bath house shall be required to obtain health cards from the department of health and sanitation; said cards to be renewed annually.

(2) The department of health and sanitation shall conduct sanitary surveys and inspections of all massage institutes and bath houses frequently enough to maintain the health standards applied to other business establishments within the city, and in no instance shall these surveys and inspections be conducted less frequently than four (4) times a year.

(3) The fee charged by the department of health and sanitation for said sanitary surveys and inspections shall be in accordance with the fee schedule set by the health department and in no instance shall said fee exceed the current fee charged similar business establishments within the city. (1981 Code, § 5-710)

**9-611. Hours of operation.** It shall be unlawful for massage institutes and bath houses to be open between the hours of 10:00 p.M. and 6:00 a.M. (1981 Code, § 5-711)

**9-612. Clothing regulations.** Employees of massage institutes and bath houses and customers thereof shall at all times while inside said massage institutes or bath houses wear sufficient opaque clothing to fully cover the genitalia and buttocks. If such person be a female, she shall at all times while inside said massage institute or bath house wear sufficient opaque clothing to fully cover the breasts, and in no event shall the clothing of said employees be any less than that amount necessary to be deemed to be in accordance with prevailing community standards for morals and decency in dress. (1981 Code, § 5-712)

**9-613. Method of operation.** (1) It shall be unlawful for an employee of any massage institute or bath house to administer massages or baths in any room, cubicle, or area in which more than three-fourths (3/4) of the sides are enclosed by walls, partitions, curtains or any other opaque object.

(2) It shall be unlawful for an employee of any massage institute or bath house to massage or bathe, while inside said massage institute or bath house, the genitalia of another. (1981 Code, § 5-713)

**9-614. Keeping of records.** Every person who operates a massage institute, bath house, or other similar business shall at all times keep an appointment book in which the name of each and every patron shall be entered, together with the time, date, and place of service, and the service provided. Such appointment book shall be available at all times for inspection by the police chief or his authorized representatives.

Every person who practices or provides any massage service, bath service, or other similar service at any location other than the principal place of business of the business establishment, including but not limited to any motel or hotel, must first give notice of his or her presence on the premises at that location and fully identify himself or herself and the patron upon whom the person intends to practice or provide a massage, bath, or other similar service to the owner, manager or person in charge of that location before rendering any service. This provision shall be deemed complied with where the location is a motel or hotel by giving such notice and identification to the person in charge of the registration desk of such motel or hotel. (1981 Code, § 5-714)

**9-615. Advertising.** No person shall publish or distribute, or cause to be published or distributed, any advertising matter or business identification card that states or depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than a massage, bath, or other similar service. (1981 Code, § 5-715)

**9-616. Supervision.** A permittee shall have the premises supervised at all times when open for business. The permittee shall personally supervise the business, and shall not violate or permit others to violate any applicable provision of this chapter. The violation of any such provision by any agent or employee of the permittee shall constitute a violation by the permittee. (1981 Code, § 5-716)

**9-617. Persons under age eighteen prohibited on premises.** No person shall permit any person under the age of eighteen years to come or remain on the premises of any business establishment regulated by this chapter, as employee, or patron, unless such person is on the premises on lawful business. (1981 Code, § 5-717)

**9-618. Alcoholic beverages prohibited on premises.** No person shall sell, give, dispense, provide or keep or cause to be sold, given, dispensed, provided or kept any alcoholic beverage on the premises of any business establishment regulated by this chapter. (1981 Code, § 5-718)

**9-619. Inspection required.** The police chief or his authorized representatives shall from time to time make inspection of each business establishment regulated by this chapter for the purposes of determining that the provisions of this chapter are fully complied with. (1981 Code, § 5-719)

**9-620. Rules and regulations of the chief of police.** The chief of police shall have the authority to enact and enforce reasonable rules and regulations for the operation of massage institutes and bath houses in the interest of public health, safety, morals, and welfare and to effectuate the general purpose of this chapter. (1981 Code, § 5-720)

**9-621. Application of chapter to existing businesses.** The provisions of this chapter shall be applicable to all persons and businesses described herein whether the herein-described activities were established before or after the effective date of this chapter. (1981 Code, § 5-721)

**9-622. Violations.** Any person who shall violate any action of this chapter shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not more than fifty dollars. Each day's continuance of a violation shall be considered a separate offense. (1981 Code, § 5-722, modified)

## CHAPTER 7

### REGULATION OF TOWING SERVICES, ETC.

#### SECTION

- 9-701. Compliance and definitions.
- 9-702. Driving wrecker to scene of accident prohibited; exception.
- 9-703. Soliciting wrecker business at scene of accident prohibited; presence at scene as evidence of violation.
- 9-704. Response to private calls permitted.
- 9-705. License required; storage facilities; expiration date; trade name registration.
- 9-706. License application; hearing renewal.
- 9-707. Fee.
- 9-708. License issuance.
- 9-709. License--display; duplicates.
- 9-710. License--refusal to issue or renew.
- 9-711. License--suspension.
- 9-712. License--revocation.
- 9-713. License--appeal from refusal to issue or renew; from decision to revoke.
- 9-714. Powers and duties of the city clerk.
- 9-715. Wrecker rotation list procedure.
- 9-716. Requirements and operating procedures for operators participating on the wrecker rotation list.
- 9-717. City-owned wreckers.
- 9-718. Fire extinguishers.
- 9-719. City fee.
- 9-720. Violations.

**9-701. Compliance and definitions.** No wrecker or towing operator shall engage in the business of towing, removing wrecked or disabled vehicles within the City of Millington without complying with the provisions of this chapter. As used in this chapter, the following terms will have the following meanings:

(1) "Wrecker or towing operator" means any person, firm or corporation engaged in the business of offering towing services by use of a wrecker.

(2) "Wrecker" means a vehicle designed to be used primarily for removing wrecked or disabled vehicles upon any street.

(3) "Police dispatcher" means the person in the police department assigned by the chief of police to handle calls for wrecker service.

(4) "Towing services" means the towing or removing of wrecked or disabled vehicles from the place where they are disabled to another location. (1981 Code, § 5-801, as replaced by Ord. #2013-23, Jan. 2014)

**9-702. Driving wrecker to scene of accident prohibited; exception.**

No person may drive a wrecker, licensed or unlicensed, to the scene of an accident on the streets of the city unless the person has been called to the scene by the police dispatcher or by the owner or operator of a vehicle disabled in the accident. (1981 Code, § 5-802, as replaced by Ord. #2013-23, Jan. 2014)

**9-703. Soliciting wrecker business at scene of accident prohibited; presence at scene as evidence of violation.**

No person may solicit in any manner, directly or indirectly, on the streets of the city, the business of towing a vehicle which is wrecked or disabled on a street, regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading, or purchasing the vehicle. Proof of the presence of a person in the wrecker business or the presence of a wrecker or motor vehicle owned or operated by a person engaged in the wrecker business, either as owner, operator, employee, or agent, on a street in the city, stopped at the scene of an accident which was not involved in the accident and whose driver or occupants were not witnesses to the accident and which has not been called to the scene by the police dispatcher or by the owner or operator of a vehicle involved in the accident, within one hour after the happening of an accident, is prima facie evidence of a solicitation in violation of this section. (1981 Code, § 5-803, as replaced by Ord. #2013-23, Jan. 2014)

**9-704. Response to private calls permitted.**

A licensed wrecker or towing operator may respond within the city to a private request for wrecker service, when a wreck or collision on a street is involved or to a disabled vehicle not involved in a wreck. (1981 Code, § 5-804, as replaced by Ord. #2013-23, Jan. 2014)

**9-705. License required; storage facilities; expiration date; trade name registration.**

(1) No wrecker or towing operator shall engage in the business of towing services within the city limits without first obtaining a license from the city clerk, provided that before said wrecker or towing operator shall be entitled to a license, the said operator must obtain a certificate of occupancy and use from the City of Millington for his place of business; provided, however, that, wrecker or towing operators located in the county, outside the city limits of Millington, who are licensed to operate in the county, pursuant to the provisions of chapter 189 of the Private Acts of 1961, may apply for a license to operate in the city and such license shall be issued without the necessity of obtaining a certificate of occupancy and use from the City of Millington for his place of business as set forth above, providing they meet all other qualifications for a license as set forth in this chapter and comply with all rules and regulations promulgated pursuant to this chapter; provided further that only those wreckers and towing operators licensed to operate in the city who have been issued certificates of occupancy and use of the City of Millington

for their places of business shall be eligible to be included on any rotation list maintained by the Millington Police Department for use in those instances where wrecker and towing operators are directed to the scene of a wreck by the police dispatcher.

(2) No wrecker or towing operator shall hereafter be eligible to obtain a license as a wrecker or towing operator unless such operator shall have facilities for storage at his place of business where his wreckers are to be operated, sufficient for the storing of not less than twenty-five (25) disabled motor vehicles.

(3) Only one (1) license may be issued to each wrecker or towing operator. A license is not assignable or transferrable. Licenses expire on the 31st day of December of each year. The license issued authorizes the licensee and all its bona fide employees to engage in wrecker service.

(4) Each wrecker or towing operator shall register with the city the trade name of his wrecker company. (1981 Code, § 5-805, as replaced by Ord. #2013-23, Jan. 2014)

**9-706. License application; hearing renewal.** (1) A person desiring to engage in the business of towing service in the city shall file with the city clerk a written application upon a form provided for that purpose, which must be signed by the applicant or his authorized agent. The following information is required in the application:

- (a) Trade name, address, and telephone number of the wrecker business.
- (b) Number and types of wreckers to be operated.
- (c) Name, address, and telephone number of the owner of the business.
- (d) Location of the real estate parcels where the towed vehicle will be stored or taken to in the City of Millington.

(2) To be eligible for a license, an applicant must have a vehicle or vehicles that meet the requirements of this chapter, and the requirements of all applicable state laws and city ordinances. The applicant must also show that the applicant is capable of complying with this chapter and all applicable state laws and city ordinances.

(3) Investigation of applicant. The city clerk will request that the chief of police shall investigate or cause to be investigated each applicant under this chapter to determine whether the applicant qualifies to be issued a license. Such investigation will establish whether or not the wrecker owner/operator has the necessary facilities, equipment and insurance as required under this chapter, whether the owner/operator meets all other requirements of this chapter, and whether the owner/operator has been convicted of a felony within the last ten (10) years, which will disqualify such owner/operator from being included on the police services wrecker rotation call list. Every wrecker operator who desires to participate in the police services wrecker rotation call list shall be required to



operate wreckers from a permanent and established place of business in the City of Millington.

(4) Nothing in this chapter shall be deemed to give the city clerk authority to withhold a license because of any information or opinion as to whether there is a need for another licensee in the city.

(5) After reviewing the application and investigating the applicant, the city clerk shall, within thirty (30) days approve or deny the application based on his findings concerning applicant's compliance with this chapter. The chief of police shall send to the applicant and all licensees a written statement setting forth the reasons for the approval or denial of the application and the date of his action.

(6) An annual license renewal, applied for at least ten (10) days prior to expiration of the license, will be granted upon compliance with the provisions of this chapter. The city clerk shall cause notices to be sent to each licensee at least twenty (20) days prior to the expiration date, notifying each licensee of this provision.

(7) The city clerk may, at any time, require additional information of an applicant or licensee to clarify items on the application. (1981 Code, § 5-806, as replaced by Ord. #2013-23, Jan. 2014)

**9-707. Fee.** (1) When an application has been approved, the city clerk shall grant a license to the applicant upon the payment of an annual fee. The annual license fee shall be five dollars (\$5.00) for each towing car or wrecker unless application is made after July 1, in which event it shall be two dollars and fifty cents (\$2.50) for the remaining period of the year. In addition, a fee of one dollar (\$1.00) shall be paid to the city clerk for the handling and issuance of the license.

(2) The fee for issuing a duplicate license for one lost, destroyed or mutilated is two dollars (\$2.00).

(3) The fees are payable upon issuance of a license. No refund of fees may be made. (1981 Code, § 5-807, as replaced by Ord. #2013-23, Jan. 2014)

**9-708. License issuance.** A license shall be issued to applicants complying with the provisions of this chapter, and a wrecker sticker shall be issued to each wrecker of licensee upon inspection and approval of such. The wrecker inspection sticker must be affixed securely to the inside upper left-hand corner of the windshield of the inspected wrecker. No license authorizing participation in the wrecker service and no inspection sticker approving the operation of a wrecker on the streets of the city shall be issued unless the following requirements are met:

(1) The applicant shall submit every wrecker proposed to be used in the service for inspection, and each wrecker, other than a heavy duty wrecker, must comply with the following minimum requirements:

(a) Each wrecker shall be not less than one ton in size and be equipped with booster brakes.

(b) Each wrecker shall be equipped with a power-operated winch, winch line with a factory-rated lifting capacity, or a city tested capacity, of not less than eight thousand (8,000) pounds, single line capacity.

(c) Each wrecker shall carry, as standard equipment, tow bar, towing dollies, safety chains, a fire extinguisher, wrecking bar, broom, shovel and flares.

(d) Each wrecker and all of its equipment shall be in a safe and good working condition.

(2) Every heavy duty wrecker must comply with the requirements in subsection (1) of this section, except:

(a) Each heavy duty wrecker must be not less than two and one-half (2 1/2) tons in size.

(b) Each heavy duty wrecker shall be equipped with a power-operated winch, winch line with a factory-rated lifting capacity, or a city tested capacity, of not less than thirty-two thousand (32,000) pounds, single or double line capacity.

(3) An applicant must show to the city clerk insurability for public liability as provided in this section. If issuance of a license is approved, an applicant shall procure, prior to issuance of the license, and keep in full force and effect, a policy of public liability insurance issued by a casualty insurance company authorized to do business in the state and in the standard form approved by the board of insurance commissioners of the state. Before the city clerk may issue a license, the applicant must deposit with the city clerk a certificate of an underwriter that the applicant has in force a policy or policies of insurance as required by this section. The coverage provisions must insure the public from loss or damage that may arise to any person or property by reason of the operation of a wrecker of the applicant and provide that the amount of recovery on each wrecker shall be in limits of not less than the following sums:

(a) A garage keeper's legal liability policy covering fire, theft, explosion and collision in the following amounts: fire, theft and explosion, all in the minimum amount of two hundred thousand dollars (\$200,000.00); collision, subject to a deduction of no more than five hundred dollars (\$500.00), with each accident being a separate claim.

(b) A garage liability policy covering the operation of applicant's own business, equipment or vehicles in the amount of one million dollars (\$1,000,000.00) combined single limits to cover bodily injury, including death, and property damage.

(4) The policy mentioned in subsection (c) of this section shall contain an endorsement providing for thirty (30) days' prior notice to the city clerk in the event of any material change or cancellation of the policy.

(5) The owner or operator of a wrecker shall have inscribed on each side thereof, in letters not less than three inches (3") in height, the name and address of the licensee. (1981 Code, § 5-808, as replaced by Ord. #2013-23, Jan. 2014)

**9-709. License--display; duplicates.** (1) Each license issued pursuant to this chapter must be posted and kept in a conspicuous place in the wrecker establishment.

(2) A duplicate license may be issued for one lost, destroyed or mutilated upon application on a form prescribed by the city clerk. Each duplicate license will have the word "duplicate" stamped across its face and will bear the same number as the one it replaces.

(3) Every licensee shall, within ten (10) days after a partial change of control in ownership, or of management, or of change of address or trade name, notify the city clerk and chief of police of such changes. (1981 Code, § 5-809, as replaced by Ord. #2013-23, Jan. 2014)

**9-710. License--refusal to issue or renew.** The city clerk shall refuse to approve issuance or renewal of a wrecker company license for one (1) or more of the following reasons:

(1) The making of any false statement as to a material matter in an application for a license, or license renewal, or in a hearing concerning the license.

(2) Violation by the licensee, applicant or an employee of licensee or applicant of a provision of this chapter.

(3) Revocation of a license, pursuant to this chapter, of the applicant, or any proprietor, partner or corporate officer of the applicant, within eighteen (18) months preceding application.

(4) Use by the licensee of a trade name for his wrecker company other than the one registered with the city clerk.

(5) Suspension of the licensee's wrecker license three (3) times within twelve (12) months. (1981 Code, § 5-810, as replaced by Ord. #2013-23, Jan. 2014)

**9-711. License--suspension.** The city manager may suspend wrecker license for a period not to exceed five (5) days for one (1) or more of the following reasons:

(1) Failure of the licensee to maintain his wrecker or equipment in a good and safe working condition.

(2) Violation by the licensee or an employee of licensee of a provision of this chapter.

(3) Violation by a wrecker driver of a provision of the motor vehicle or traffic laws of this state or city while in the scope of his employment in the wrecker service. (1981 Code, § 5-811, as replaced by Ord. #2013-23, Jan. 2014)

**9-712. License--revocation.** The city manager shall revoke wrecker license, upon notice and hearing, for one or more of the following reasons:

- (1) The making of any false statement as to a material matter in an application for a license, license renewal or in a hearing concerning the license.
- (2) Repeated violations by the licensee or an employee of licensee of provisions of this chapter.
- (3) Use by the licensee of a trade name for his wrecker company other than the one registered with the city clerk.
- (4) Suspension of the licensee's wrecker company license three (3) times within twelve (12) months. (1981 Code, § 5-812, as replaced by Ord. #2013-23, Jan. 2014)

**9-713. License--appeal from refusal to issue or renew; from decision to revoke.** Any action refusing to issue, change or renew a license hereunder is final unless the applicant or licensee, within ten (10) days after the date of the action, files a written appeal with the city clerk to the board of mayor and aldermen setting forth specific grounds for the appeal. The board of mayor and aldermen shall, within thirty (30) days, grant a hearing to consider the action. The board of mayor and aldermen has authority to sustain, reverse or modify the action appealed. The decision of the board of mayor and aldermen is final. (1981 Code, § 5-813, as replaced by Ord. #2013-23, Jan. 2014)

**9-714. Powers and duties of the city clerk.** In addition to the powers and duties elsewhere prescribed in this chapter, the city clerk is authorized to:

- (1) Administer and enforce all provisions of this chapter.
- (2) Keep records of all licenses issued, suspended or revoked.
- (3) Keep records of all authorized wreckers.
- (4) Conduct, when appropriate, periodic investigations of wrecker companies throughout the city.
- (5) The city clerk may promulgate rules and regulations describing procedures to be implemented under this chapter and to be observed by licensed wrecker or towing operators. Such rules and regulations shall be submitted to the board of mayor and aldermen for approval. The city clerk shall have authority to change such rules and regulations whenever, in his judgment, the interest of the city requires such change or revision, such change or revision to be submitted to and approved by the board of mayor and aldermen before becoming effective. The violation of such rules and regulations may be grounds for suspension or revocation of the wrecker or towing license as provided in this chapter. (1981 Code, § 5-814, as replaced by Ord. #2013-23, Jan. 2014)

**9-715. Wrecker rotation list procedure.** (1) The city manager shall establish a wrecker rotation list procedure, which shall be made in a manner calculated to best serve the public. This procedure shall be part of the rules and regulations authorized by § 9-714(5).

(2) When a wrecker is needed, the investigating police officer will call police department headquarters. On receiving the first call, the dispatcher at headquarters must call the first wrecker company on the rotation list to remove the vehicle to the place designated by the city manager.

(3) In any emergency situation in which undue delay would be caused by relying only on the wrecker on duty, another licensed wrecker may be called. (1981 Code, § 5-815, as replaced by Ord. #2013-23, Jan. 2014)

**9-716. Requirements and operating procedures for operators participating on the wrecker rotation list.** (1) Any wrecker or towing operator participating on the wrecker rotation list shall comply with the following requirements and procedures:

(a) Maintain twenty-four (24) hour wrecker service and operate an electronic paging device on a twenty-four (24) hour basis.

(b) Arrive at the accident within a reasonable time after having been notified to do so by the police department, such response time not to exceed thirty (30) minutes.

(c) Deliver, in every instance, the wrecked or disabled vehicle to a location designated by the chief of police, the police dispatcher or the owner or driver of the vehicle.

(d) Report to the city clerk all changes in wreckers and equipment used in the licensee's wrecker service and render all additional vehicles for inspection by the clerk. A wrecker without a valid wrecker inspection sticker is not allowed to participate in the wrecker rotation list.

(e) Employ wrecker drivers who are not habitual violators of the traffic laws.

(f) Completely remove from the site of an accident all resulting wreckage or debris, including all broken glass, but excluding truck or vehicle cargoes, before leaving the site.

(g) Not permit the use of his wrecker by another licensee.

(h) Store any towed vehicle within the City of Millington to a secure facility located in the City of Millington, Tennessee. After demand for retrieval by a vehicle owner, the wrecker service shall make the vehicle available to the vehicle owner between 8:00 A.M. and 5:00 P.M. Monday through Friday and between 8:00 A.M. to 12:00 P.M. on Saturday.

(2) Nothing in this chapter shall be construed to permit operation of a wrecker as an authorized emergency vehicle. (1981 Code, § 5-816, as replaced by Ord. #2013-23, Jan. 2014)

**9-717. City-owned wreckers.** Nothing in this chapter shall prevent the chief of police or dispatcher from calling city-owned wreckers to the scene of an accident to render emergency wrecker service in lieu of calling a wrecker from

the wrecker rotation list. (1981 Code, § 5-817, as replaced by Ord. #2013-23, Jan. 2014)

**9-718. Fire extinguishers.** Each vehicle used to tow other vehicles shall have on hand at least one fire extinguisher of a type recommended by the manufacturer to put out gasoline fires and fires in automobiles. At least one (1) such fire extinguisher shall be in the garage or other place where vehicles used for towing are stored. Such fire extinguisher shall be in plain sight in an easily accessible location and shall be kept charged. Each employee shall be informed of the location of the fire extinguisher and of the manufacturer's instructions for using it. (1981 Code, § 5-818, as replaced by Ord. #2013-23, Jan. 2014)

**9-719. City fee.** The mayor and board of aldermen, after recommendation of the city manager set a fee for towing to the city lot by resolution. (1981 Code, § 5-819, as replaced by Ord. #2013-23, Jan. 2014)

**9-720. Violations.** Any person, firm, or corporation violating any of the provisions of this chapter, or who shall engage in business as a wrecker or towing car operator without a license as herein provided, shall be guilty of a misdemeanor and shall be punished in accordance with the general penalty clause in this code. (as added by Ord. #2013-23, Jan. 2014)

## CHAPTER 8

### CABLE TELEVISION

#### SECTION

9-801. Approved fees.

#### **9-801. Approved fees.**

Basic Service	\$10.50
Basic & HBO	19.45
Basic Service & Cinemax	19.45
Basic & HBO & Cinemax	27.90
Basic & Disney	19.45
Basic & HBO & Disney	27.90
Basic & Cinemax & Disney	27.90
Total Full Package	\$35.85
Additional sets with converter as primary service	6.00
Additional outlet without converter	1.00
Multi Dwelling Hotel/Motel Bulk Rate	
Basic Service + HBO + Cinemax + Disney	28.00

#### Proposed One Time Charges

Primary Outlet (one set)	\$30.00 <sup>1</sup>
Additional outlet installed at same time as primary outlet	6.00
Upgrade	12.50
Long Converter Jumper (Converter remote from TV set)	4.50
Parental Key Lock	20.00
Relocate TV outlet	10.00
Additional outlet with or without converter after service has been installed (separate trip)	10.00
(1981 Code, § 5-901)	

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<sup>1</sup>50% discount on primary installation on initial turn on of the system.

**CHAPTER 9****FOOD ESTABLISHMENT SANITATION****SECTION**

- 9-901. Definitions.
- 9-902. Water supply.
- 9-903. Sewage disposal.
- 9-904. Plumbing.
- 9-905. Toilet facilities.
- 9-906. Storage and disposal of garbage and rubbish.
- 9-907. Insect and rodent control.
- 9-908. Hand-washing facilities.
- 9-909. Sanitary design, construction, and installation of equipment and utensils.
- 9-910. Cleanliness of equipment and utensils.
- 9-911. Health and disease control.
- 9-912. Cleanliness.
- 9-913. Floors, walls, and ceilings.
- 9-914. Lighting.
- 9-915. Ventilation.
- 9-916. Dressing rooms and lockers.
- 9-917. Food protection.
- 9-918. Permits.
- 9-919. Inspection of food service establishments.
- 9-920. Access to establishments.
- 9-921. Examination and condemnation of food.
- 9-922. Plan review of future construction.
- 9-923. Titles of sections.

**9-901. Definitions.** The following definitions shall apply in the interpretation and the enforcement of this chapter:

- (1) "Adulterated" shall mean the condition of a food
  - (a) If it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health;
  - (b) If it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one has been established;
  - (c) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human consumption;
  - (d) If it has been processed, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;



(e) If it is in whole or in part the product of a diseased animal, or an animal which has died otherwise than by slaughter; or

(f) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

(2) "Approved" shall mean acceptable to the health authority, based on his determination as to conformance with appropriate standards and good public health practice.

(3) "Corrosion-resistance material" shall mean a material which maintains its original surface characteristics under prolonged influence of the food, cleaning compounds and sanitizing solutions which might contact it.

(4) "Easily cleanable" shall mean readily accessible and of such material and finish and so fabricated that residue may be completely removed by normal cleaning methods.

(5) "Employee" shall mean any person working in a food establishment who transports food or food containers, who engages in food preparation or service, or who comes in contact with any food utensils or equipment.

(6) "Equipment" shall mean all stoves, ranges, hoods, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items other than utensils, used in the operation of food establishments.

(7) "Food" shall mean any raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

(8) "Food service establishment" shall mean any bakery, restaurant, lunch stand, café, ice cream plant, public or private market, slaughterhouse, stall, store, storehouse, cold storage plant, cafeteria, tea room, sandwich shop, soda fountain, tavern, lounge, nightclub, industrial feeding establishment; private, public or nonprofit organization or institution routinely serving food; catering kitchen, commissary, food processing plant, grocery, fish market, food storage warehouse, package goods food establishment, drive-in grocery store, or any other place in or from which meat, fish, oysters, birds, fowl, vegetables, fruit, milk, ice cream, ices, beverages or any other food intended for consumption by human beings is manufactured, kept, stored, or offered for sale, disposition, or distribution as food for human beings, with or without charge.

(8)(a) "Temporary food service establishment" shall mean any food service establishment which operates at a fixed location for a period of time not exceeding thirty (30) days.

(9) "Health authority" shall mean the health authority of the County of Shelby, and the Director of the Memphis and Shelby County Health Department or his authorized representative or the Director of Health and Sanitation of the City of Millington.

(10) "Kitchenware" shall mean all multi-use utensils other than tableware used in the storage, preparation, conveying or serving of food.

(11) "Labeling" shall mean the marking, designation, or descriptive device on food containers and/or articles of food denoting the name of the product, ingredients thereof; name and address of manufacturer and/or distributor (if name and address of distributor is utilized then the permit number and the permitting agency shall appear on the product); and any other information the health authority may so designate.

(12) "Misbranded" shall mean the presence of any written, printed or graphic matter upon or accompanying food or containers of food, which is false or misleading, or which violates any applicable state or local labeling requirements.

(13) "Perishable food" is any food of such type or in such condition as may spoil.

(14) "Potentially hazardous food" is any perishable food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

(15) "Safe temperatures," as applied to potentially hazardous food, shall mean temperatures of 45° F. or below, and 140° F. or above.

(16) "Sanitize" shall mean effective bactericidal treatment of clean surfaces of equipment and utensils by a process which has been approved by the health authority as being effective in destroying microorganisms, including pathogens.

(17) "Single-service articles" shall mean cups, containers, lids or closures; plates, knives, forks, spoons, stirrers, paddles; straws, place mats, napkins, doilies, wrapping materials; and all similar articles which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and which are intended by the manufacturer and generally recognized by the public as for one usage only, then to be discarded.

(18) "Tableware" shall mean all multi-use eating and drinking utensils, including flatware (knives, forks and spoons).

(19) "Utensils" shall mean any tableware and kitchen ware used in the storage, preparation, conveying or serving of food.

(20) "Wholesome" shall mean in sound condition, clean, free from adulteration, and otherwise suitable for use as human food. (1981 Code, § 8-601)

**9-902. Water supply.** The water supply shall be adequate, of a safe, sanitary quality and from an approved source. Hot and cold running water shall be provided in all areas where food is prepared; or where equipment, utensils, or containers are washed. (1981 Code, § 8-602)

**9-903. Sewage disposal.** All sewage shall be disposed of in a public sewerage system, or in other manner approved by the health authority. (1981 Code, § 8-603)

**9-904. Plumbing.** Plumbing shall comply with the plumbing code adopted in title 12. (1981 Code, § 8-604)

**9-905. Toilet facilities.** Each food service establishment shall be provided with adequate, conveniently located toilet facilities. Separate toilets shall be provided for each sex. Toilet facilities shall be located so as the public cannot enter through food processing, food preparation, storage or warehousing area. Vestibules shall be provided. Doors to toilet rooms shall be self-closing. Toilet rooms shall be ventilated and well-lighted. Fixtures shall be kept clean and in good repair. (1981 Code, § 8-605)

**9-906. Storage and disposal of garbage and rubbish.** All garbage and rubbish containing food wastes shall be kept in approved containers with tight-fitting lids. Trash and paper shall be kept in covered containers. (1981 Code, § 8-606)

**9-907. Insect and rodent control.** Effective measures shall be taken to protect against the entrance into the establishment and the breeding or presence on the premises of vermin. (1981 Code, § 8-607)

**9-908. Hand-washing facilities.** Each food service establishment shall be provided with adequate and conveniently located hand-washing facilities for its employees and patrons. Lavatories shall be equipped with hot and cold running water. Soap and individual hand towels or other approved hand-drying device shall be used. Tobacco in any form shall not be used in the preparation of service carriers. After smoking, all food-handling employees shall wash their hands. (1981 Code, § 8-608)

**9-909. Sanitary design, construction, and installation of equipment and utensils.** All equipment and utensils shall be of such material as to be smooth, easily cleanable, and shall be kept in good repair. Food-contact surfaces shall be non-toxic, corrosion resistant, and shall conform to National Sanitation Foundation criteria. (1981 Code, § 8-609)

**9-910. Cleanliness of equipment and utensils.** All eating and drinking utensils shall be thoroughly cleaned and sanitized after each usage. All utensils and food-contact surfaces of equipment used in preparation, service, display or storage of food shall be cleaned and sanitized prior to each use. After cleaning of such utensils and equipment, they shall be stored as to be protected from contamination. Food-service establishments which do not have adequate

and effective facilities for cleaning and sanitizing utensils shall use single-service articles. (1981 Code, § 8-610)

**9-911. Health and disease control.** No person while infected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, or an acute respiratory infection, shall work in any area of a food-service establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms, or transmitting disease to other individuals. All persons working in any food establishment shall have a food handlers' certificate, in date, completely filled out and signed by a registered, licensed physician in the State of Tennessee. (1981 Code, § 8-611)

**9-912. Cleanliness.** All employees shall maintain a high degree of cleanliness and conform to hygienic practices while on duty. No employee shall resume work after visiting the toilet room without first washing his/her hands. Hairnets or other approved hair restraints shall be used by employees engaged in the preparation and service of food. (1981 Code, § 8-612)

**9-913. Floors, walls, and ceilings.** Floors in toilet room, walk-in refrigerators, food preparation areas shall be of smooth, nonabsorbant materials and shall be easily cleanable. All floors shall be kept clean and in good repair. Flood drains shall be provided where floors are subjected to flooding type cleaning or where normal operations release or discharge water or other liquid waste on floors. The walls and ceilings of all rooms shall be kept clean and in good repair. Walls and ceilings in food preparation areas shall be of material that is smooth and can be easily cleaned. (1981 Code, § 8-613)

**9-914. Lighting.** All areas of food establishments shall be well lighted. (1981 Code, § 8-614)

**9-915. Ventilation.** All rooms in which food is prepared, stored or served shall be well ventilated. (1981 Code, § 8-615)

**9-916. Dressing rooms and lockers.** All dressing rooms and lockers shall be kept clean and orderly. (1981 Code, § 8-616)

**9-917. Food protection.** All food while being stored, prepared, displayed, served or sold at food-service establishments, or during transportation between such establishments shall be protected from contamination. All perishable food shall be stored at such temperatures as will protect against spoilage. All potentially hazardous food shall be maintained at safe temperatures (45° F. or below, or 140° F. or above), except during necessary

periods of preparation and service, not to exceed a total elapsed time between these temperatures of more than three (3) hours. (1981 Code, § 8-617)

**9-918. Permits.** It shall be unlawful for any person to operate a food-service establishment within the City of Millington who does not possess a valid permit issued to him by the health authority. Only a person who complies with the requirements of this chapter shall be entitled to receive and retain a permit. Permits shall not be transferable from one person or place to another person or place. (1981 Code, § 8-618)

**9-919. Inspection of food service establishments.** At least once every six (6) months, the health authority shall inspect each food-service establishment located in the City of Millington or its police jurisdiction and shall make as many additional inspections and reinspections as are necessary for the enforcement of this chapter. (1981 Code, § 8-619)

**9-920. Access to establishments.** The health authority shall be permitted to enter, at any reasonable time, any food-service establishment within the City of Millington for the purpose of making inspections to determine compliance with this chapter. (1981 Code, § 8-620)

**9-921. Examination and condemnation of food.** Food may be examined or sampled by the health authority as often as may be necessary to determine freedom from adulteration or misbranding. Proprietors of food establishments shall furnish the health authority, upon request, food samples without charge for laboratory analysis and examination. (1981 Code, § 8-621)

**9-922. Plan review of future construction.** When a food-service establishment is hereafter constructed or extensively remodeled, or when existing structure is converted for use as a food-service establishment, properly prepared plans and specifications for such construction, remodeling, or alteration, showing layout, arrangement, and construction materials of work area, and the location, size, and the type of fixed equipment and facilities, shall be submitted to the health authority for approval before work is begun. (1981 Code, § 8-622)

**9-923. Titles of sections.** It is hereby expressly declared and recognized that the titles of sections appearing herein are not part of this chapter, and are not intended to determine or restrict the meaning of its provisions. (1981 Code, § 8-623)

## CHAPTER 10

### TATTOO REGULATION

#### SECTION

9-1001. Definitions.

9-1002. Application.

9-1003. Certificate of sanitation.

9-1004. Requirements for certificate of sanitation.

9-1005. Minimum operating standards.

9-1006. Penalties.

**9-1001. Definitions.** The following definitions shall apply to the interpretation and enforcement of this chapter:

(1) "Tattoo or tattooing" - to mark or cover the skin by subcutaneous introduction by sticking in of nontoxic dyes or pigments so as to form indelible marks or figures, or by the production of scars.

(2) "Tattoo artist" - one who engages in tattooing.

(3) "Director" - director of the department of health and sanitation as established and appointed pursuant to Ordinance No. 1955-3, and as codified in § 20-202 of this code.

(4) "Certificate of sanitation" - that certificate to be issued by the director. (1981 Code, § 8-801)

**9-1002. Application.** Any person desiring to engage in tattooing shall submit an application to the director of the department of health and sanitation on a form prescribed by the Director giving the following information:

(1) Name, age, and address.

(2) Address of the proposed place of business.

(3) Date of admission to practice medicine in the State of Tennessee.

(4) Certified results of a chest x-ray, and a Wasserman or other acceptable venereal test, each made within thirty (30) days of the application date.

(5) A brief statement of the applicant's experience in the art of tattooing. (1981 Code, § 8-802)

**9-1003. Certificate of sanitation.** No person shall operate a tattooing business or shop unless or until such person has received a certificate of sanitation from the director of the department of health and sanitation of the City of Millington. (1981 Code, § 8-803)

**9-1004. Requirements for certificate of sanitation.** The following requirements for a tattooing shop must be complied with in order to qualify and hold a certificate of sanitation.

(1) The shop shall be located in a permanent building so constructed as to prevent the contamination of the work area by dust from the street or sidewalk.

(2) The shop shall be maintained in a sanitary and antiseptic condition.

(3) All walls, ceilings, and floors shall be smooth and easily cleaned. Walls and ceilings are to be painted a light color, and shall be kept clean and free from dust and debris. The floor shall be swept and mopped daily. Floors, walls, and ceilings shall not be swept or cleaned while tattooing is in operation.

(4) Adequate light and ventilation must be provided.

(5) Each tattooing shop shall contain a sink for the exclusive use of the tattoo artist to wash his hands and prepare the customers for tattooing. The sink shall be provided with adequate hot and cold running water. There shall also be available at the sink approved soap, clean individual towels, and refuse containers.

(6) Adequate toilet, urinal, and hand-washing facilities shall be available on the premises for the use of customers and the tattoo artist. Toilets, urinals, and hand-washing facilities shall be maintained in a sanitary and antiseptic condition at all times.

(7) An adequate number of work tables shall be provided for each tattoo artist. The surface of all work tables shall be constructed of metal or other material which is smooth, light-colored, non-absorbent, corrosive resistant, and easily sanitized.

(8) The shop shall be so arranged that the work tables shall be located at least ten (10) feet from observers or waiting customers, or such work tables shall be separated from observers or waiting customers by a panel or other barrier at least eight feet high. The panel may be constructed of glass, solid plastic, or similar wall material.

(9) Proper closed cabinets for the exclusive storage of instruments, dyes, pigments, carbons, stencils, and other paraphernalia used in the shop shall be provided for each tattoo artist.

(10) The tattooing shop shall have proper facilities for the disposition of waste materials.

(11) Each tattoo artist shall be provided with individual hand brushes and fingernail files.

(12) The holder of any certificate of sanitation shall not allow a tattoo artist to perform in his tattoo shop unless the tattoo artist is a duly licensed physician in the State of Tennessee.

(13) The holder of a certificate of sanitation shall maintain proper records for each patron, and shall include the date on which he was tattooed, his name, his signature, address, age, design of the tattoo and its location on his body, his branch of service, rate or rank and serial number if the customer is in the armed services, and the name of the tattoo artist who tattooed him. These records shall be entered in ink or indelible pencil in a bound book kept solely for

this purpose. This book shall be available at reasonable hours for examination by the Director or any law enforcement officer, and shall be preserved for at least two years from the date of the last entry therein.

(14) No individual shall be tattooed unless he or she is at least eighteen (18) years of age or unless there is presented written consent from at least one parent and/or his guardian, which consent shall be kept as other records required herein. (1981 Code, § 8-804)

**9-1005. Minimum operating standards.** Tattoo artists shall use standards of aseptic technique in tattooing, dressing and other operations, and all instruments, needles, stencils, dyes, pigments, dressing materials, razors, hand brushes, fingernail files, and other equipment used by the tattoo artist while tattooing shall be sterile, and the following minimum standards shall be observed at all times:

- (1) No person except a duly licensed physician may practice tattooing.
- (2) It shall be unlawful to perform any tattooing on an individual who is under the influence of an intoxicating liquor.
- (3) It shall be unlawful to perform any tattooing on an individual under the age of eighteen (18) years, without the written consent of one of his parents or his legal guardian. Such written consent shall be kept on file as provided for in these regulations.
- (4) No person with any disease in a communicable form, or suspected of having such disease, shall engage in tattooing.
- (5) Immediately after tattooing a patron, the tattoo artist shall advise the patron on the care of the tattoo and shall instruct the patron to consult a physician at the first sign of infection of the tattoo.
- (6) Each tattoo artist must wear a clean outer garment.
- (7) The stencil for transferring the design to the skin shall be thoroughly cleansed and rinsed in an approved germicidal solution for at least twenty minutes, and then it shall be dried with sterile gauze or in the air before each use.
- (8) Only non-toxic dyes or pigments may be used. Single service or individual portions of dyes or pigments in clean sterilized individual containers, or single-service containers must be used for each patron. After tattooing, the remaining unused dye or pigment in the single-service or individual container must be discarded.
- (9) A set of individual, single-service sterilized needles shall be used for each patron.
- (10) Storage cabinets shall be maintained in a sanitary condition and all instruments, dyes, pigments, stencils and other paraphernalia shall, when not being used, be kept in them in an orderly arrangement.
- (11) Work tables shall be kept clean and orderly. (1981 Code, § 8-805)



**9-1006. Penalties.** Any person who shall knowingly or wilfully make any false statements in his application, or shall violate any provisions of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof shall be punished in accordance with the general penalty provisions for this code. Any conviction under this chapter shall be grounds for suspension or revocation of the certificate of sanitation. (1981 Code, § 8-806)

## CHAPTER 11

### SEXUALLY ORIENTED BUSINESSES

#### SECTION

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**9-1101. Purpose and findings.** (1) Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. It is not the intent nor effect of this ordinance to restrict or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market, nor is it the intent or effect of this ordinance to condone or legitimize the distribution of obscene material.

(2) Findings. Based on evidence concerning the adverse secondary effects of sexually oriented uses on the community presented in hearings and in reports made available to the board of mayor and aldermen, on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); on studies in other communities including, but not limited to, Phoenix and Tucson, Arizona; Indianapolis, Indiana; Minneapolis and St. Paul, Minnesota; Amarillo, Austin, Beaumont and Houston, Texas; Newport News, Virginia; Garden Grove, Los Angeles and Whittier, California; Seattle, Washington; Oklahoma City, Oklahoma; and Cleveland, Ohio; and on findings from the Report of the Attorney General's Working Group on The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Report to: The American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses, ERG/Environmental Research Group (1996); the HIV/AIDS Surveillance Report of the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, No. 2005, 15; and United States HIV & AIDS Statistics by Year (last updated December 9, 2004, and based on the HIV/AIDS Surveillance Report 2001, 13 (no. 2)); and various reports on sexually transmitted diseases from the Memphis and Shelby County Health Department, the board of mayor and aldermen finds as follows:

(a) Sexually oriented business lend themselves to ancillary unlawful and unhealthy activities that are presently or may be uncontrolled by the operators of such establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

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

(c) Sexual acts of various kinds occur at sexually oriented business, 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 sexually oriented theaters, sexually oriented arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

(f) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infections (HIV-AIDS), genital herpes, hepatitis B, 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, 253,448 through 1992, and 929,985 through 2003. As of the end of 2003, more than 500,000 people are estimated to have died of AIDS in the United States.

(h) As of December 31, 2003, there were 6,678 people reported to be living with HIV infection (not AIDS) in the state of Tennessee, and 5,817 people reported to be living with AIDS in this state. From 1992 through December 31, 2004, 6,531 people were reported to have been diagnosed with HIV in Shelby County, and through December 31, 2003, there were 3,653 people reported to have been diagnosed with AIDS in Shelby County. From 1999 through 2003, there were 1,835 reported deaths among people with HIV/AIDS 1,835 in the Shelby County area.

(i) In Shelby County for the year 2004, there were 245 reported cases of syphilis, 3,278 reported cases of gonorrhea, and 7,540 reported cases of chlamydia. As of 2000, the U.S. Centers for Disease Control and Prevention ranked Shelby County fourth among all U.S. counties in numbers of reported cases of syphilis and reported a Shelby County rate of 28.2 cases of syphilis per 100,000 of population.

(j) 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.

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

(l) 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 the operators of the facilities to self-regulate those activities and maintain those facilities.

(m) The findings noted in paragraphs letter (a) through (l) above raise substantial governmental concerns.

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

(o) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the owners and operators to see that sexually oriented businesses are run in

a manner consistent with the health, safety and welfare of their patrons and employees, as well as the citizens of the city.

(p) It is appropriate to require reasonable assurance that the licensee is the actual operator of the sexually oriented business, at all times fully in possession and control of the premises and activities occurring therein.

(q) Removal of doors on booths in sexually oriented businesses and requiring sufficient lighting on premises with such booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in sexually oriented theaters.

(r) Requiring licensees 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.

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

(t) 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 ordinance is designed to prevent or who are likely to be witnesses to such activity.

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

(v) The barring of such individuals from the management of sexually oriented uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

(w) The general welfare, health, morals and safety of the citizens of the City of Millington will be promoted by the enactment of this ordinance. (as added by Ord. #2005-20, Aug. 2005)

**9-1102. Classifications.** Sexually oriented businesses are classified as follows:

- (1) Sexually oriented arcades;
- (2) Sexually oriented bookstores, sexually oriented novelty stores, or sexually oriented video stores;
- (3) Sexually oriented cabarets;

- (4) Sexually oriented motels;
  - (5) Sexually oriented motion pictures theaters;
  - (6) Sexually oriented theaters;
  - (7) Escort agencies;
  - (8) Nude model studios; and
  - (9) Sexual encounter centers.
- (as added by Ord. #2005-20, Aug. 2005)

**9-1103. Definitions.** For the purpose of this article, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Sexually oriented" means, when used in connection with or to modify any item described in this chapter, any such item that regularly depicts material that is distinguished or characterized by an emphasis on matter depicting or describing "specified sexual activities" or "specified anatomical areas" offered for purchase or rent by patrons on the premises of a commercial establishment.

(2) "Sexually oriented 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 any other kind of image-producing devices, in existence as of the effective date of this ordinance or created at any time thereafter, are maintained to show images to five 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."

(3) "Sexually oriented bookstore or sexually oriented video store" means a commercial establishment which has a majority of its stock in trade or a majority of its floor space in one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, DVD's, video cassettes or video reproductions, slides or any other print or visual representations now in existence or created at any time hereafter, which depict or describe "specified sexual activities" and "specified anatomical areas" as these terms are defined in this section.

(4) "Sexually oriented novelty store" means an establishment having at least five (5%) percent of its retail sales area devoted to goods which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as these terms are defined in this section.

(5) "Sexually oriented 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, DVD's, video cassettes, slides or any other photographic or similar reproductions of all kinds which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(6) "Sexually oriented motel" means a hotel, motel or similar commercial establishment which:

(a) Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, DVD's, 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 sexually oriented 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.

(7) "Sexually oriented motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, DVD's, video cassettes, slides, or any other similar photographic reproductions in existence as of the effective date of this ordinance or created at any time thereafter are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," and where the showing of such films, motion pictures and other photographic reproductions is the majority of such theater's business;

(8) "Sexually oriented theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly as a majority of its business features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical area" or by "specified sexual activities."

(9) "Employee" means a person who performs any job or service on the premises of a sexually oriented business on a full-time or part-time basis, including as an independent contractor, 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 the premises or equipment on the premises, or for the delivery of goods to the premises.

(10) "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.

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

(12) "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 addition of any sexually oriented business to any other existing sexually oriented business; or,

(d) The relocation of any sexually oriented business.

(13) "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.

(14) "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 of 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 transferrable 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 in advance of the class; and,

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

(15) "Nudity or a state of nudity" means the appearance of bare human male or female genitals or pubic area, the showing of the female breast 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.

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

(17) "Semi-nude or semi-nude condition" means a state of dress in which clothing covers no more than the genitals, pubic area and areola of the female breast.



(18) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex, or sexual activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

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

(20) "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 area, buttocks or a female breast below a point immediately above the top of the areola.

(21) "Specified criminal activity" means any one or more of the following:

(a) Prostitution or promotion of prostitution; violation of the obscenity laws; sale, loan, distribution or exhibition of harmful material to one or more minors; promotion of performances including sexual conduct by a minor; use of minors for obscene purposes; possession or distribution of child pornography; public lewdness; indecent exposure; rape, aggravated rape, sexual battery, aggravated sexual battery, or any assault of a sexual nature; incest; sale or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of this state or other states or countries;

(b) For which:

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

(ii) Less than five years have elapsed since the date of conviction 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 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 or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(b) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

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

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy;
- (c) Fondling or other erotic touching of human genitals, pubic area, buttock or female breast; or
- (d) Excretory functions as part of or in connection with any of the activities set forth above; or
- (e) Use of artificial devices or inanimate objects to depict any of the above-described activities.

(23) "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 this ordinance takes effect.

(24) "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 constitutes 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. #2005-20, Aug. 2005)

**9-1104. Sexually oriented business 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 ordinance.
- (b) For any person who operates a sexually oriented business to employ or contract with 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 ordinance;
- (c) For any person who operates a sexually oriented business to fail to keep on the business premises at all times a complete list containing the name of each employee and a copy of each employee's sexually oriented business employee license.

(2) An application for a license must be made on a form provided by the Millington City Clerk. The license shall be issued only in the name of a natural person.

(3) All applicants must be qualified according to the provisions of this ordinance. The application may request, and the applicant shall provide, such information (including fingerprints) as will enable the city to conduct the

investigation necessary to determine whether the applicant meets the qualifications established in this ordinance.

(4) If a person who wishes to operate a sexually oriented business is an individual, the individual 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 a majority interest in the business and each individual who is an officer, director, general partner, managing partner or manager of the sexually oriented business must sign the application for a license as applicant and provide the information required by this ordinance. 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 full legal name and any aliases, and his or her mailing address, and shall submit proof that he or she is 18 years of age;

(ii) A general partnership, the partnership shall state its complete name and business address; the name and address of any partner who owns a majority interest in the partnership; and the name, address, and social security number for each partner who actively participates in management of the business;

(iii) A corporation, limited partnership or limited liability company, such entity shall state its name and principal business address, the name of its registered agent for service of process, its registered office address, the name, address and capacity of all officers and directors or, if applicable, managing partners or managers; and the name and address of any shareholder or member who owns a majority interest in the entity; if a Tennessee entity, shall provide a certificate of existence from the Tennessee Secretary of State and a copy of its articles of incorporation or organization or its certificate of limited partnership certified by the Tennessee Secretary of State, both issued not more than thirty (30) days prior to the date the application is filed with the city. If the applicant has a corporate general partner or other entity required to be registered, the same information, documents and certifications shall also be provided for that entity.

If the applicant is organized under the laws of any state other than the state of Tennessee, it shall provide this same documentation and certifications from the state of its organization and a certificate of authority from the Tennessee Secretary of State, all issued within not more than thirty (30) days prior to the date the application is filed with the city.

(b) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the applicant shall state the sexually oriented business's fictitious or assumed name and submit copies of the required registration documents.

(c) The applicant shall state whether the applicant has been convicted of a specified criminal activity as defined in this ordinance, and, if so, the specified criminal activity involved, date, place, and jurisdiction of each such conviction and the sentence imposed.

(d) The application shall state whether the proposed licensee that is an entity in or for which the applicant was a controlling stockholder, officer, director, manager, general or managing partner, or operator of a sexually oriented business has had a previous license under this ordinance or under any other similar sexually oriented business ordinance from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked and the date of the denial, suspension or revocation.

(e) The application shall state whether the applicant or any entity in which the individual applicant was or is a controlling stockholder, officer, director, manager, general or managing partner holds any other licenses for or relating to any sexually oriented business under this ordinance or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed business.

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

(g) The application shall state 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 ordinance.

(h) The applicant shall provide two recent photographs of the applicant, at least 2" by 2", clearly showing the applicant's face.

(i) The applicant shall provide his/her valid driver's license number, state and date of issuance of such driver's license and date of expiration, and the applicant's social security number and/or (if not an individual) state or federally issued tax identification number.

(j) A sketch or diagram shall be submitted with the application showing the configuration of the premises in which the sexually oriented business will be operated, including a statement of the square feet of total floor space occupied by the business and the location of any booths. 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 (6) inches.

(k) The applicant shall submit a straight-line drawing, prepared and certified to the city within thirty (30) days prior to the date application is filed with the city, by a land surveyor registered in the state of Tennessee, showing the property boundary lines of the property on which the sexually oriented business for which an application is being filed and showing the property lines and structures containing any existing sexually oriented businesses or any of the properties or uses listed in § 9-1114 of this ordinance that are within 1500 feet of the property for which the application is being filed. 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.

(l) If an applicant wishes to operate a sexually oriented business, other than a sexually oriented motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, DVD's, video cassettes, other video reproductions or any other kind of visual reproductions, or live entertainment which depict specified anatomical areas or specified sexual activities, then the applicant shall comply with the application requirements set forth in § 9-1116.

(m) Any sexually oriented business that exists within the city on the effective date of this ordinance shall submit an application for a license by ninety (90) days after such effective date. Any sexually oriented business that applies for a license by such date may continue to operate the business described in the a plication even if the city clerk and board of mayor and aldermen decline to issue the license, where such denial is appealed to a court as provided in this ordinance, pending a final judgment. (as added by Ord. #2005-20, Aug. 2005)

**9-1105. Issuance of sexually oriented business license.** Application forms shall be available from the city clerk. The original application shall be dated by the city clerk and kept in the city's files. On the next business day after a completed application is filed, copies of the completed application shall be distributed to the applicant and to the police department, the codes enforcement officer, the fire department and the health department for an investigation to be made on such information as is contained therein. The investigation shall be completed, and each of the departments shall provide its response to the city clerk, within twenty (20) days from the date the completed application is filed. Within thirty (30) days after receipt of a completed sexually oriented business application, the city clerk shall issue 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:

- (1) An applicant is under eighteen (18) years of age.
- (2) An applicant or the entity that will own or operate the sexually oriented business is delinquent in payment to the city of any taxes, fees, fines,

or penalties assessed against or imposed upon it in relation to any sexually oriented business.

(3) An applicant has failed to provide information requested by the application form or has falsely answered a question or request for information on the application form.

(4) An applicant has been denied a license by the city to operate a sexually oriented business within the preceding twelve (12) months or the license to operate a sexually oriented business held by the applicant, the entity for which the license is sought, or an entity in which the applicant was or is a controlling shareholder or member or an officer, director, manager or managing partner has been revoked within the preceding twelve (12) months.

(5) An applicant has been convicted of a special criminal activity as defined in this ordinance.

(6) 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.

(7) The license fee required by this ordinance has not been paid.

(8) An applicant or the proposed establishment is in violation of or is not in compliance with any one or more of the provisions of this ordinance.

(9) An applicant has been employed in a sexually oriented business in a managerial capacity within the preceding 12 months and has demonstrated an inability to operate or manage the sexually oriented business premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

All sexually oriented business licenses shall state on their face the name of the person or persons to whom it is granted, the issuance and expiration dates, the address of the sexually oriented business and the classification for which the license is issued as described in § 9-1102. All licenses shall be displayed in a conspicuous public place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

A sexually oriented business license shall issue for only one classification as listed in § 9-1103. (as added by Ord. #2005-20, Aug. 2005)

**9-1106. Sexually oriented employee license required.** (1) It shall be unlawful for any person to be an employee of, or an independent contractor with, a sexually oriented business, to perform any work or to provide entertainment at such business, without having secured a sexually oriented business employee license pursuant to this ordinance.

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

- (a) Full name (including all aliases), age, date and place of birth;
- (b) Height, weight, hair and eye color;

(c) Present residence address and telephone number, and residence addresses for the three years prior to the date of application;

(d) Date of issuance, date of expiration, issuing state and number of valid current driver's license or other identification card information; Social Security number, and proof that the individual is at least eighteen (18) years of age.

(e) A statement by the applicant that he/she is familiar with the provisions of this ordinance that apply to him/her and a sworn statement that the information provided on the application is true and accurate.

(f) The name and address of the sexually oriented business at which the applicant proposes to work.

(3) Attached to the application form for a sexually oriented business employee license shall be the following:

(a) Two color photographs of the applicant at least 2" by 2" clearly showing the applicant's face;

(b) The applicant's fingerprints on a form provided by the Millington Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(c) 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, state the name, the name of the issuing or denying jurisdiction, the date(s) of such denial, revocation or suspension, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(d) A statement whether the applicant has been convicted of a specified criminal activity as defined in this ordinance and, if so, the specified criminal activity involved, and the date, place and jurisdiction of each conviction. (as added by Ord. #2005-20, Aug. 2005)

**9-1107. Issuance of sexually oriented business employee license.**

(1) The original completed application shall be dated by the city clerk and kept in the city's files. On the next business day after a completed application is filed, copies of the completed application shall be distributed to the applicant and to the police department, for an investigation to be made on such information as is contained therein. The investigation shall be completed within twenty-five (25) days from the date the completed application is filed.

(2) Upon the filing of the application for a sexually oriented business employee license, the city clerk shall issue a temporary license to the applicant. After the investigation is completed and the police department report has been

provided to the city clerk, the city clerk shall issue a license, unless the investigation shows by a preponderance of the evidence that one or more of the following findings is true:

(a) The applicant has failed to provide the information required by the application form or has falsely answered a question or request for information on the application form;

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

(c) The applicant has been convicted of a "specified criminal activity" as defined in this ordinance;

(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 ordinance; or,

(e) The applicant has had a sexually oriented business employee license revoked by the city within two (2) years of the date of the current application.

(f) If an application for a sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void.

(g) All sexually oriented business employee licenses shall state the name of the business at which the employee will work and shall be carried on the person of, or be readily accessible by, the holder of such license during such person's working hours and shall be displayed upon the request of any member of the city's police department, or a health inspector.

(h) If the holder of a sexually oriented business employee license changes the business at which he/she works, the employee shall notify the city clerk in writing of the name and address of the new business at which he/she is employed within thirty (30) days, and such information shall be kept in the employee's file in the clerk's office. Failure to give such notice shall void any sexually oriented employee license issued to such person. (as added by Ord. #2005-20, Aug. 2005)

**9-1108. Inspection.** (1) A licensee or operator of a sexually oriented business, shall permit representatives of the police department, health department or fire department to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time such business is occupied or open for business.

(2) A person who owns or operates a sexually oriented business or his agent or employee commits a misdemeanor violation of this ordinance and any other applicable laws of the state of Tennessee if such person refuses to permit such lawful inspection of the premises at any time it is occupied or open for business. (as added by Ord. #2005-20, Aug. 2005)



**9-1109. 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 § 9-1110 and paying the fee set out in § 9-1124. Application for renewal of a license 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 date 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 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. #2005-20, Aug. 2005)

**9-1110. Renewal.** A sexually oriented business license and a 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 ordinance or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The application for renewal shall be the same as the initial application, except that the applicant may submit a copy of the original application together with a sworn statement stating any changes from the original application or stating that all the information in the original application remains true and correct in all respects. The renewal of the license shall be subject to the payment of the renewal fee as set forth in § 9-1124. (as added by Ord. #2005-20, Aug. 2005)

**9-1111. Suspension.** (1) The city shall suspend a sexually oriented business license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

(a) Violated, or is not in compliance with, any section of this ordinance; or

(b) Refused to allow an unimpeded inspection of the sexually oriented business premises as authorized by this ordinance provided, however, the provisions above relating to suspension shall not preclude revocation of a license, if grounds as set out in § 9-1112 below exist; or

(c) Demonstrated an inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers. (as added by Ord. #2005-20, Aug. 2005)

**9-1112. Revocation.** The city shall revoke a sexually oriented business license if a cause of suspension in § 9-1111 occurs and the license has been suspended within the preceding twelve (12) months.

(1) The city shall revoke a sexually oriented business license if it determines that:

(a) A licensee gave materially false or misleading information in the responses or information 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 sexually oriented 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; or,

(f) A licensee is delinquent in payment to the city, county, or state for any taxes or fees past due in connection with the sexually oriented business or the premises on which such business is operated.

(2) The city shall revoke a sexually oriented business employee license if it determines that:

(a) A licensee Gave materially false or misleading information in the responses or information submitted during the application process;

(b) A licensee possessed, used, gave to others or sold controlled substances on the premises;

(c) A licensee committed or solicited prostitution on the premises;

(d) Licensee operated within a sexually oriented business without proper license; or

(f) A licensee has participated in any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act on the licensed premises.

(3) 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.

(4) After denial of an initial application or 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 in accordance with laws of the state of Tennessee. (as added by Ord. #2005-20, Aug. 2005)

**9-1113. No transfer of license.** A licensee shall not transfer a sexually oriented business license or a sexually oriented business employee 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. Any attempted transfer of a license shall be void and shall be misdemeanor violation of this ordinance. (as added by Ord. #2005-20, Aug. 2005)

**9-1114. Location of sexually oriented businesses.** (1) A person commits a misdemeanor violation of this ordinance and any other applicable laws of the state of Tennessee if that person operates or causes to be operated a sexually oriented business in any zoning district other than the M-2 General Industrial District as described in title 14, chapter 8 of the Millington Municipal Code.

(2) A person commits a misdemeanor offense if the person operates or causes to be operated a sexually oriented business within 1500 feet of the nearest property line of:

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

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

(c) A boundary of any residential district as defined in the residential zoning classifications in the Millington Zoning Ordinance;

(d) An occupied residential "dwelling" as defined in the Millington Zoning Ordinance or a lot devoted to use as a 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, greenbelt areas, or other similar public land within the city which is under the control, operation, or management of the city park and recreation authorities;

(f) A lot devoted to use as a "residence" as defined in the Millington Zoning Ordinance.

(g) An entertainment or other business or facility, including but not limited to an entity such as a YMCA or YWCA, which is oriented primarily towards children or family entertainment or activities; or

(3) A person commits a misdemeanor violation of this ordinance and any other applicable laws of the state of Tennessee if that person causes or

permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1500 feet of another sexually oriented business.

(4) A person commits a misdemeanor violation of this ordinance and any other applicable laws of the state of Tennessee 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 in any building; or the increase of floor area of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.

(5) For the purposes 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 or to be 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.

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

(7) Any sexually oriented business lawfully operating on the date this ordinance becomes effective that is in violation of subsection (1) through (6) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue to the extent permitted by Tennessee Code Annotated, § 13-7-208 unless terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except in accordance with such statute.

(8) A sexually oriented business lawfully in operation as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of a sexually oriented business license, of a use listed in subsection (2) or (3) of this section within 1500 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked. (as added by Ord. #2005-20, Aug. 2005)

**9-1115. Additional regulations for sexually oriented motels.**

(1) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishments has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an sexually oriented motel as that term is defined in this ordinance.

(2) A person commits a misdemeanor violation of this ordinance and any other applicable laws of the State of Tennessee 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. #2005-20, Aug. 2005)

**9-1116. Additional regulations pertaining to exhibition of sexually explicit films, DVD's, videos or other similar reproductions or live entertainment in viewing rooms.** (1) A person who operates or causes to be operated a sexually oriented business, other than a sexually oriented 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, DVD, 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 business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. 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 blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6") inches. The city may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) 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 stations 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 licensed employee is on duty and situated in the manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises, shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for

any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It shall be the duty of the licensee to ensure that the view area specified in subsection (1)(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 (1)(a) of this section.

(g) No viewing room may be occupied by more than one 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) 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 material shall be used within forty-eight (48") inches of the floor.

(2) A person having a duty under subsection (1)(a) through (h) of subsection (1) above commits a misdemeanor violation of this ordinance and any other applicable laws of the state of Tennessee if he knowingly fails to fulfill that duty. (as added by Ord. #2005-20, Aug. 2005)

**9-1117. Additional regulations for escort agencies.** (1) An escort agency shall not employ any person under the age of 18 years.

(2) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years. (as added by Ord. #2005-20, Aug. 2005)

**9-1118. Additional regulations for nude model studios.** (1) A nude model studio shall not employ any person under the age of 18 years.

(2) A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 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. #2005-20, Aug. 2005)

**9-1119. Additional regulations concerning public nudity.** (1) It shall be a misdemeanor violation of this ordinance and any other applicable laws of the State of Tennessee 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 misdemeanor violation of this ordinance and any other applicable laws of the State of Tennessee 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 (10) feet from any patron or customer and on a stage at least two feet from the floor.

(3) It shall be a misdemeanor violation of this ordinance and any other applicable laws of the State of Tennessee 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 misdemeanor violation of this ordinance and any other applicable laws of the State of Tennessee for an employee, while semi-nude, in a state of nudity to touch a customer or the clothing of a customer. (as added by Ord. #2005-20, Aug. 2005)

**9-1120. Prohibition against children in a sexually oriented business.** A person commits a misdemeanor if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business. (as added by Ord. #2005-20, Aug. 2005)

**9-1121. Hours of operation.** No sexually oriented business, except for a sexually oriented motel, may remain open at any time between the hours of

one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on weekdays and Saturdays, and one o'clock (1:00) A.M. and noon (12:00) P.M. on Sundays. (as added by Ord. #2005-20, Aug. 2005)

**9-1122. Exemptions.** It is a defense to prosecution under § 9-1118 that a person appearing in a state of nudity did so in a modeling class operated:

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

(2) By a private college or university 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,

(3) In a structure: 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, where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and where no more than one nude model is on the premises at anyone time. (as added by Ord. #2005-20, Aug. 2005)

**9-1123. Fees.** (1) The following fees shall be payable to the city, for the purpose of defraying costs incurred in connection with the application and investigation process for licenses and the costs of monitoring and insuring compliance with this ordinance:

(a) An initial application and investigation fee in the amount of \$1,000, payable at the time of filing an initial application for a sexually oriented business license.

(b) An annual renewal fee of \$500, payable at the time of filing an application for renewal of a sexually oriented business license. There shall be a \$100 late fee for any renewal application filed less than thirty (30) days prior to the date of expiration of the license. If the renewal license is denied, one-half of the renewal fee shall be returned to the applicant.

(c) An initial application and investigation fee in the amount of \$100, payable at the time of filing an initial application for a sexually oriented business employee license.

(d) An annual renewal fee in the amount of \$50, payable at the time of filing an application for renewal of a sexually oriented business employee license. If the renewal license is denied, one-half of the renewal fee shall be returned to the applicant.

(2) No license, either initial or renewal, shall be issued until the city has received good funds in payment of the applicable fees. (as added by Ord. #2005-20, Aug. 2005)

**9-1124. Penalties and injunction.** Each violation of this ordinance 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 a provision of this ordinance is a separate offense or violation. In addition to imposition of a fine, the city shall have the right to seek injunctive relief to restrain any violation of this ordinance. (as added by Ord. #2005-20, Aug. 2005)

**9-1125. Procedure for suspension or revocation; appeal.** (1) If the city clerk should determine that there appears to be a violation of this ordinance such that a license should be suspended or revoked, said clerk shall deliver written notice of the reasons notice of the violation, citing the sections of the Millington Municipal Code that have been violated, to the board of mayor and aldermen. The same notice shall be sent at the same time, by certified mail, return receipt requested, the licensee, and if the licensee is an employee of a sexually oriented business, then also to the person who holds the license for the business.

(2) Immediately upon receipt of the clerk's notice, the board of mayor and aldermen shall set a date for a hearing upon the alleged violation, that shall be not more than ten (10) business days after the date of the clerk's notice. The board shall immediately notify the applicant or the person alleged to have violated this ordinance of the date, place and time of the hearing. Upon written request of the applicant or alleged violator submitted to the city clerk prior to the date of the scheduled hearing, the hearing date may be extended for up to five (5) additional business days.

(3) The person alleged to have violated this ordinance shall have the right to present evidence at the hearing. If such person does not attend the hearing, he or she shall be deemed to have waived the right to be present and the right to present evidence.

(4) After hearing the evidence, the board of mayor and aldermen shall render a decision whether to suspend or revoke the license. If the alleged violator is not present at the hearing, he or she shall be notified of the board's decision by certified mail, return receipt requested.

(5) In the event the city clerk determines that an original or renewal application for a sexually oriented business license or a sexually oriented business employee license should be denied, the clerk shall so notify the board of mayor and aldermen and the applicant in writing within thirty (30) days of the date the application is filed. Upon receipt of such notice, the board shall immediately set a hearing on the recommendation for denial and shall notify the applicant of the place, date and time of the hearing. The hearing shall be held not more than forty (40) days after the date of the filing of the application with the city; provided that upon written request of the alleged violator submitted to the city clerk prior to the date of the scheduled hearing, the hearing date may be extended for up to five (5) additional business days.

The applicant shall have the right to present evidence at the hearing. If, after the hearing, the board determines that the original or renewal application

should be denied, it shall so rule, and the applicant shall have the right to appeal the board's decision to the Circuit or Chancery Court of Shelby County, Tennessee pursuant to Tennessee Code Annotated, § 27-9-101 et seq.

(6) In the event of a decision of the board suspending or revoking a sexually oriented business the license holder shall have the right of appeal as set out in Tennessee Code Annotated, § 27-9-101 et seq. (as added by Ord. #2005-20, Aug. 2005)

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

1. IN GENERAL.
2. DOGS AND CATS.
3. DANGEROUS ANIMALS.

**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, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1981 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. (1981 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. (1981 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 and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1981 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. (1981 Code, § 3-105)

**10-106. Cruel treatment prohibited.** It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1981 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. (1981 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. (1981 Code, § 3-108)

## CHAPTER 2

### DOGS AND CATS

#### SECTION

10-201. Dog and cat vaccinations required; fees; exceptions.

10-202. Evidence of ownership of dogs or cats.

10-203. Dogs to wear tags.

10-204. Dogs running at large.

10-205. Confinement of dogs or cats suspected of being rabid.

10-206. Seizure and disposition of dogs running at large.

10-207. Impoundment fees; expenses.

10-208. Owner surrender of animals.

10-209. Noisy dogs prohibited.

10-210. Violation/penalties.

**10-201. Dog and cat vaccinations required; fees; exceptions.** It shall be unlawful for any person to own, have, harbor, keep or to cause or permit to be harbored, or kept in the city, any dog three (3) months of age or over, or any cat six (6) months of age or over, 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, and the regulations enacted in accordance with such law, as such law or regulations may be amended from time to time. (1981 Code, § 3-201, as replaced by Ord. #2000-22, Dec. 2000)

**10-202. Evidence of ownership of dogs or cats.** If any dog or cat is found on the premises of any person for a period of ten (10) days or more, it shall be prima facie evidence that such dog or cat belongs to the occupant of such premises. Any person keeping or harboring a dog or cat for ten (10) consecutive days shall, for the purpose of this chapter, be declared to be the owner of such dog or cat and shall be liable for violations of this chapter and chapter 3 of title 10. (1981 Code, § 3-202, as replaced by Ord. #2000-22, Dec. 2000)

**10-203. Dogs to wear tags.** 1. It shall be unlawful for any person to own, keep or harbor, or cause to permit to be owned, harbored or kept in the city, any dog which does not wear a tag evidencing the vaccination and registration required by this chapter.

2. Such license tags shall be purchased from veterinarians, who shall issue tags in accordance with the Tennessee Anti-Rabies Law and regulations enacted thereunder.

3. The provisions of this section shall not apply to nonresidents traveling through the city or staying temporarily for a period of less than thirty (30) days. (1981 Code, § 3-203, as replaced by Ord. #2000-22, Dec. 2000)

**10-204. Dogs running at large.** Dog owners, or persons who harbor or keep dogs within the city, shall, at all times, keep their animals on a leash or confined by a fence on their property or the private property of another, with the permission of the owner of that property, so as to prevent the animal from being at large, biting or harassing any person engaged in a lawful act, interfering with the use of public property or with the use of another person's private property or being in violation of any other section of this code. No animal shall be allowed to run at large even on the property of the owner of such animal, unless confined by a fence. (1981 Code, § 3-204, as replaced by Ord. #2000-22, Dec. 2000)

**10-205. Confinement of dogs or cats suspected of being rabid.** If any dog or cat 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, animal control officer or chief of police may cause such dog or cat to be confined or isolated for such time as he or she deems reasonably necessary to determine if such dog or cat is rabid. (1981 Code, § 3-205, as replaced by Ord. #2000-22, Dec. 2000)

**10-206. Seizure and disposition of dogs running at large.** (1) Any dog found running at large may be seized by a health officer, animal control officer, police officer or public works employee and temporarily impounded. If the owner of the dog can be identified, by means of the dog's license tag or otherwise, the city immediately upon impoundment or as soon as practical thereafter shall attempt to notify the owner by telephone. The owner may redeem the dog by providing proof of current vaccination and paying a reasonable impoundment fee, in accordance with the fee schedule set out in this chapter 2 or any amendment hereto. If the owner is unknown or cannot be contacted within twenty four hours, or if the owner is contacted but fails to claim the dog within 24 hours after being contacted, or fails to show proof of current vaccination, the dog will be transported to the Memphis Animal Shelter.

(2) When because of its viciousness or apparent infection with rabies a dog or cat cannot be safely impounded, it may be summarily destroyed by the health officer, animal control officer or any policeman. (1981 Code, § 3-206, as replaced by Ord. #2000-22, Dec. 2000)

**10-207. Impoundment fees; expenses.** (1) The impoundment fees provided for in this section shall apply only to redemption of a dog or cat impounded by the City of Millington. Additional fees or charges may apply if the dog or cat has been transported to the Memphis Animal Shelter.

(a) First impoundment, \$30.00

(b) Second impoundment, \$50.00. (Animal belonging to same owner picked up for a second time within one year of the date of the first impoundment.)

(c) Third and subsequent impoundments, \$100.00 each. (Animal belonging to same owner picked up for a third time or more within one year of the date of the first impoundment.)

(2) In addition to the impoundment fee, if the city has incurred any incidental or extraordinary expenses, such as costs of necessary treatment of the impounded animal by a veterinarian, the owner shall be liable for payment of such costs. (1981 Code, § 3-207, as replaced by Ord. #2000-22, Dec. 2000)

**10-208. Owner surrender of animals.** It shall be the responsibility of the animal's owner to transport and surrender any and all unwanted animals to the Memphis Animal Shelter. It shall be the responsibility of the owner properly and promptly to dispose of dead pets or farm animals according to applicable law. (as added by Ord. #2000-22, Dec. 2000)

**10-209. 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. (as added by Ord. #2000-22, Dec. 2000)

**10-210. Violation/penalties.** Any person violating or permitting the violation of any provision of this chapter shall, upon conviction in the city court, be required to pay a penalty of up to \$50 plus costs for each separate violation. Each day that a violation continues shall be deemed a separate offense. (as added by Ord. #2000-22, Dec. 2000)

## CHAPTER 3

### DANGEROUS ANIMALS

#### SECTION

- 10-301. Definitions.
- 10-302. Keeping dangerous animal prohibited.
- 10-303. Exceptions.
- 10-304. Enforcement.
- 10-305. Violation/penalties.
- 10-306. Costs to be paid by responsible persons.
- 10-307. Reporting of incidents.

**10-301. Definitions.** (1) “At-large.” An animal running loose without leash or restraint measures.

(2) “Dangerous animal.” An animal may be categorized as dangerous when any one or more of the following conditions occur:

(a) Any animal which has been declared to be dangerous at a proceeding held pursuant to this chapter.

(b) Any animal which, while-at-large, or improperly confined or controlled, kills or seriously injures another domestic animal, whether on public or private property.

(c) Any animal which is observed at-large and running in packs on three separate occasions, as such animals pose a potential danger to the public due to their tendency to develop dangerous or vicious habits.

(d) Any animal which approaches a person or an animal in a threatening or menacing manner.

(e) Any animal which, has inflicted injury on, or attacks, or bites, a human being, without provocation, whether on public or private property.

(f) Any animal owned or harbored primarily or partly for the purpose of animal fighting, or trained for fighting.

(g) Any animal which the owner permits to be used or uses in the commission of a crime or to harm, threaten, torment, abuse or otherwise endanger the safety of a human being.

(h) Any animal which unprovoked, chases or approaches a person on the streets, sidewalks or any public or private property in an attempt to attack.

(i) Any animal with an observed propensity, tendency or disposition to attack unprovoked, so as to cause injury or otherwise threaten the safety of human beings or domestic animals.

(3) “Person” includes any natural person, association, partnership, limited liability company, corporation or other organization.



(4) “Provocation” shall mean tormenting, abusing or assaulting any animal. (1981 Code, § 3-301, as replaced by Ord. #2000-23, Dec. 2000)

**10-302. Keeping dangerous animal prohibited.** (1) It shall be unlawful for any person to harbor or keep a dangerous animal within the city unless such animal is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1981 Code, § 3-302, as replaced by Ord. #2000-23, Dec. 2000)

**10-303. Exceptions.** Any person or organization which falls into one of the following subsections shall be permitted to own, harbor or have charge, custody, control or possession of any animal described above:

(1) Bona fide educational or medical institutions, museums or any other place where dangerous animals are kept as live specimens for the public to view, or for the purpose of instruction or study.

(2) Any circus, carnival or other exhibit or show which keeps such animals for exhibition to the public, provided such animals are securely confined or restrained so as not to endanger human beings.

(3) A bona fide, licensed veterinary hospital which keeps such animals for treatment or impoundment.

(4) The Millington Police Department, Shelby County Sheriff's Department or any duly constituted law enforcement agency when such animals are used for law enforcement purposes. (1981 Code, § 3-303, as replaced by Ord. #2000-23, Dec. 2000)

**10-304. Enforcement.** (1) Any person who witnessed or has other personal knowledge that an act made unlawful by this chapter has been committed, or that an animal should be declared to be dangerous, may sign a complaint against the alleged violator or owner of such animal.

(2) Any police officer, special police officer or animal control officer employed by the city, or acting under a city contract with another governmental entity, is authorized to issue a summons and complaint to any person when the officer personally observes a violation of the provisions of this chapter, or when information is received from any person who has personal knowledge that an act which is made unlawful by this chapter has occurred or that an animal should be declared to be dangerous.

(3) Should a police officer, special police officer or animal control officer witness or receive information concerning a violation of/or behavior as described in subsections (1) or (2), he or she may, in his or her discretion, impound the animal involved pending a hearing as described in subsections (4) through (6) below.

(4) When a complaint or summons has been issued pursuant to paragraphs (1) or (2) above, or upon motion of an animal owner whose animal has been impounded under subsection (3) above, the city court is empowered to

hold hearings to determine whether reasonable grounds exist to believe that a violation has occurred or whether an animal should be declared to be dangerous. Said hearings may be held on an ex parte basis if the court, within its discretion, determines it necessary to protect the public health or safety. After the hearing, if the court finds that reasonable grounds exist, the court is empowered to enter orders, either on its own motion or on the motion of the city, to have the animal in question seized and impounded or to continue the impoundment of the animal, at the owner's expense, until the completion of all legal proceedings.

(5) If the court finds a violation of this chapter, it shall order the animal destroyed or immediately removed from the city. If an animal is ordered destroyed or removed from the city pursuant to this subsection, the person who owns, possesses, or keeps the animal shall be entitled to petition the circuit court within fourteen (14) days of the order for a hearing to review the propriety of the order. However, said animal shall be impounded and remain in custody pending a final order in the judicial proceedings.

(6) Should the defendant fail to immediately remove the animal from the city as ordered by the court, the city court judge shall find the defendant in contempt and order the immediate confiscation, impoundment and destruction of the animal. (1981 Code, § 3-304, as replaced by Ord. #2000-23, Dec. 2000)

**10-305. Violation/penalties.** Any person violating or permitting the violation of any provision of this chapter shall, upon conviction in the city court, be subject to a fine of up to three hundred fifty dollars (\$350) for each separate violation. Each day that a violation of this chapter continues shall constitute a separate offense. (1981 Code, § 3-305, as replaced by Ord. #2000-23, Dec. 2000)

**10-306. Costs to be paid by responsible persons.** In addition to the foregoing penalties, all expenses, including without limitation, any costs incurred by the City of Millington for shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this chapter shall be charged against the owner, keeper, or harbinger of such animal and the owner of the property on which such animal is kept. Payment for such costs shall be collected by the city clerk. (1981 Code, § 3-306, as replaced by Ord. #2000-23, Dec. 2000)

**10-307. Reporting of incidents.** It shall be mandatory, as to both the owner of the animal and the persons bitten, to report all animal bites, whether occurring upon the streets, sidewalks, or any public or private property, to the Millington Police Department. In addition, it shall be mandatory to report any unprovoked attacks and/or any incidents in which animals exhibit threatening or menacing behavior to a person upon the streets, sidewalks or any public or private property. Reports to the police departments shall contain the following information:

- (1) The date and location of such incident;

- (2) The name, address and age of the victim and, if the victim is a minor, the name and address of his or her parent or legal guardian, if known;
- (3) The breed of animal involved or its classification as mixed breed, and a description of the animal;
- (4) The identity of the owner or keeper of the animal, if known; and
- (5) The action taken or ordered by the city court in response to such incident. (1981 Code, § 3-307, as replaced by Ord. #2000-23, Dec. 2000)

## TITLE 11

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

#### CHAPTER

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

#### CHAPTER 1

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

#### SECTION

- 11-101. Drinking beer, etc., on streets, etc.
- 11-102. Minors in beer places.
- 11-103. Lewd acts in beer and alcoholic beverage establishments prohibited.
- 11-104. Owner or employee not to permit or allow lewd acts.
- 11-105. Penalties.
- 11-106. Consumption of alcoholic beverages or beer or possession of open containers prohibited.

**11-101. Drinking beer, etc., on streets, etc.** It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or

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<sup>1</sup>Municipal code references

- Animals and fowls: title 10.
- Housing and utilities: title 12.
- Fireworks and explosives: title 7.
- Traffic offenses: title 15.
- Streets and sidewalks (non-traffic): title 16.

<sup>2</sup>Municipal code reference

- Sale of alcoholic beverages, including beer: title 8.

State law reference

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

intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or playground or other public place within the municipality unless the place has an appropriate permit and/or license for on premises consumption of such beverage. Violation of this section shall be a civil offense. (1981 Code, § 10-244)

**11-102. Minors in beer places.** No person under the age of twenty-one (21) shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. Furthermore, no such minor shall purchase, attempt to purchase, or possess beer in any such beer place. (1981 Code, § 10-237, modified)

**11-103. Lewd acts in beer and alcoholic beverage establishments prohibited.** It shall be unlawful for any person to appear in any place or establishment or the premises thereof wherein beer or alcoholic beverages are consumed or sold and to:

(1) Publicly perform acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual acts prohibited by law.

(2) Publicly engage in the actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus or genitals.

(3) Publicly engage in the actual or simulated displaying of the pubic hair, anus, buttocks, vulva, genitals, or breasts below the top of the aureola of any person.

(4) Publicly wear or use any device or covering, exposed to public view, which simulates the human breasts, genitals, anus, buttocks, pubic hair or any portion thereof.

(5) Have any entertainer who is employed in whole or part by any licensee to dance except on a stage at least eighteen inches above the immediate floor level and removed at least six feet from the nearest patron. (1981 Code, § 10-213)

**11-104. Owner or employee not to permit or allow lewd acts.** It shall be unlawful for any person to permit or allow another to commit any of the acts specified in § 11-103 hereof on or about the premises which are owned, managed, or operated by said person or in which said person is employed. (1981 Code, § 10-214)

**11-105. Penalties.** Every person convicted of having violated any of the preceding two sections shall be guilty of a misdemeanor and punished in accordance with the general penalty clause of this code. Each day any violation of §§ 11-103 or 11-104 continues shall be deemed a separate offense. (1981 Code, § 10-215)

**11-106. Consumption of alcoholic beverages or beer or possession of open containers prohibited.** It shall be unlawful for any person to have or to drink an alcoholic beverage or beer from an open can, bottle, glass or other container in, on or at any public park, public school ground, public street, alley, avenue, highway or sidewalk, or in or at any public place unless such public place has a beer or liquor permit and license for "on premises consumption." (1981 Code, § 10-247)

**CHAPTER 2**

**OFFENSES AGAINST THE PERSON**

**SECTION**

11-201. Assault and battery.

**11-201. Assault and battery.** It shall be unlawful for any person to commit an assault or an assault and battery. (1981 Code, § 10-201)

## CHAPTER 3

### OFFENSES AGAINST THE PEACE AND QUIET

#### SECTION

11-301. Disturbing the peace.

11-302. Anti-noise regulations.

**11-301. Disturbing the peace.** No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1981 Code, § 10-202)

**11-302. 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 other device on any automobile, motorcycle, bus, truck, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, hooting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or



disturb the quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(e) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 5:00 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) City vehicles. Any vehicle of the city while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the city, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1981 Code, § 10-245)

## CHAPTER 4

### INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

#### SECTION

- 11-401. Escape from custody or confinement.
- 11-402. Impersonating an officer.
- 11-403. False emergency alarms.
- 11-404. Resisting or interfering with a police officer.
- 11-405. Coercing people not to work.

**11-401. Escape from custody or confinement.** It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1981 Code, § 10-221)

**11-402. Impersonating an officer.** 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. (1981 Code, § 10-223)

**11-403. False emergency alarms.** It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1981 Code, § 10-232)

**11-404. Resisting or interfering with a police officer.** It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any police officer while the latter is in the discharge or apparent discharge of his duty. (1981 Code, § 10-222)

**11-405. Coercing people not to work.** It shall be unlawful for any person in association or agreement with one or more persons to assemble, congregate or meet together in the vicinity of any premises where other persons are employed or reside, or upon the streets, approaches or places adjacent thereto, for the purpose of inducing any such other person, by compulsion, threats, coercion, intimidation, act of violence, or by otherwise putting such person in fear, to quit his employment, or to refrain from seeking or freely entering into any lawful employment. This does not prohibit peaceful picketing. (1981 Code, § 10-230)

## CHAPTER 5

### FIREARMS, WEAPONS AND MISSILES

#### SECTION

11-501. Air rifles, etc.

11-502. Throwing missiles.

11-503. Weapons and firearms generally.

**11-501. 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. (1981 Code, § 10-225)

**11-502. Throwing missiles.** It shall be unlawful for any person to throw any stone, snowball, bottle, or any other missile maliciously upon or at any vehicle, building, tree, or other public or private property or upon or at any person in any public or private way or place. (1981 Code, § 10-226)

**11-503. Weapons and firearms generally.** It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument except the army or navy pistol which shall be carried openly in the hand. However, the foregoing prohibition shall not apply to members of the united States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties and in arresting criminals and transporting and turning them over to the proper authorities, nor to any conductor of any passenger or freight train of any steam railroad while he is on duty. It shall also be unlawful for any unauthorized person to discharge a firearm within the municipality. (1981 Code, § 10-224)

## CHAPTER 6

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

11-601. Trespassing on trains.

11-602. Malicious mischief.

**11-601. Trespassing on trains.** It shall be unlawful for any minor or other person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1981 Code, § 10-236)

**11-602. Malicious mischief.** The act of malicious mischief, as hereby defined, shall constitute a misdemeanor. For the purpose of this section, malicious mischief shall be defined and considered as any malicious or mischievous physical injury either to the property or rights of another or to those of the public in general, and without the consent of the owner. Without excluding any act not herein named, but expressly included herein, the following acts shall be and constitute malicious mischief and a misdemeanor:

- (1) Damaging a vessel or building by explosion.
- (2) Burning crops, timber or grass.
- (3) Altering or removing a signal or light for a railroad or vessel or exhibiting false lights or signals.
- (4) Maliciously injuring, destroying, defacing or removing any milestone, post, guideboard, or street marker, bridge, private way, pier, tree, rock, post, or other monument for designating property, telegraph or telephone wire, or cable, or appurtenances belonging thereto, pipe or main for conducting gas or water and appurtenances thereto, electric lines, lamps, posts and appurtenances thereto, sewer or drain or pipe connected therewith, fire hydrants, hose or appliances, fire extinguishers, danger and guideposts.
- (5) Entering upon the garden, orchard, or improved cultivated or enclosed lands of another, and to wilfully or wantonly sever, destroy, carry away, or injure the trees, shrubs, vines, flowers, moss, turf, grain, grass, hay, fruit, or vegetables thereon.
- (6) Digging, taking or carrying away earth, soil or stone from the land of another.
- (7) Placing any structure upon the land of another.
- (8) Breaking plate glass windows or doors of another.
- (9) Breaking, defacing or injuring any house of religious worship.

(10) Connecting any tube, pipe, wire or other instrument with any instrument used for conducting gas, fuel, electricity or water, in such manner as to use said gas, fuel, electricity or water without same passing through a meter or other instrument.

(11) Altering, injuring, or preventing the action of a meter, valve, stop cock, or other instrument used for measuring quantities of gas, electricity or water.

(12) Breaking, defacing or causing to be broken or defaced, the seal on any water meter.

(13) Loosening the brake or blocking of any car standing on any railroad track in the city.

(14) Taking or carrying away any coal or other fuel from any railroad car or environs of the city.

(15) Maliciously to cut away, let loose, injure or destroy any raft, boat, floating mill, watercraft or vessel of another, or carrying the same from its moorings.

(16) Knowingly or willfully to destroy or carry away the rails or boards, wood or other lumber of another, or to tear down or remove any structure or part thereof, or to destroy, or remove therefrom any plumbing, electrical equipment or other appurtenances.

(17) Maliciously to destroy, injure or secrete any goods, chattels or valuable papers of another.

(18) Wantonly or unnecessarily to remove, cut, injure or destroy any tree, shrub, vine, moss or turf, growing or being located, upon any public lands of any character whatsoever, including all public parks and the entire rights-of-way of all public highways, roads, streets and alleys.

(19) For any chauffeur or any other person in like capacity to use the automobile of another without the owner's permission or consent.

(20) Willfully to top, cut, burn, break down, injure or destroy, or otherwise to interrupt or interfere with the current, lines, cables, poles, towers, fixtures or appliances of any telephone or telegraph company, or municipality engaged in furnishing communication, light, heat or power by electricity or in any way to injure, remove, destroy or interfere with any gas, water or electrical fixtures or appliances. (1981 Code, § 10-239)

## CHAPTER 7

### MISCELLANEOUS

#### SECTION

11-701. Posting notices, etc.

11-702. Curfew for minors.

11-703. Wearing masks.

11-704. Littering streets, public places and private property prohibited.

11-705. Disturbing the municipal court.

11-706. Misdemeanors of the state adopted.

**11-701. Posting notices, etc.** No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property within the corporate limits unless legally authorized to do so. (1981 Code, § 10-240)

**11-702. Curfew for minors.** It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night after 11:00 P.M. unless upon a legitimate errand or accompanied by a parent or other adult person having lawful custody of such minor. (1981 Code, § 10-238)

**11-703. 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. (1981 Code, § 10-246, modified)

**11-704. Littering streets, public places and private property prohibited.** It shall be a misdemeanor for any person to place any garbage, straw, dirt, chips, shells, nails, iron, glass, fruit peelings, melon rinds, paper, rags, other rubbish or obnoxious substance on any street, sidewalk, alley or public park, parkway square or other place in the city or on the property of another person. Each violation of this section shall be a separate and distinct offense. (1981 Code, § 10-241)

**11-705. Disturbing the municipal court.** It shall be unlawful for any person to create a disturbance of any trial before the municipal court by any distracting conduct, loud or unusual noise, or any indecorous, profane or blasphemous language. (1981 Code, § 10-218)

**11-706. Misdemeanors of the state adopted.** All offenses against the State of Tennessee which are defined by the state law to be misdemeanors are hereby designated and declared to be offenses against this municipality also and it is hereby ordained that any violation of any or either of said laws is also a violation of this section. (1981 Code, § 10-101)



## CHAPTER 8

### OBSCENITY, ETC.

#### SECTION

- 11-801. Obscene literature.
- 11-802. Definitions.
- 11-803. Unlawful to disseminate obscene materials to minors.
- 11-804. Unlawful to sell tickets to obscene presentations to minors.
- 11-805. Defenses.
- 11-806. Unlawful for minors knowingly to purchase obscene materials--  
falsification of age.
- 11-807. Penalty.
- 11-808. Public indecency.

**11-801. Obscene literature.** It shall be unlawful for any person to publish, sell, exhibit, distribute, or possess for the purpose of lending, selling or otherwise circulating or exhibiting, any book, pamphlet, ballad, or other written or printed paper containing obscene language, prints, pictures or descriptions manifestly intended to corrupt the morals. (1981 Code, § 10-205)

**11-802. Definitions.** For the purposes of this, and the following five sections, the following definitions shall apply:

(1) "Minor" means any person who has not reached the age of eighteen (18) years.

(2) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque cover or the showing of the female breasts with less than a full opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

(3) "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or if such person be a female, the breasts.

(4) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(5) "Excess violence" means the depiction of acts of violence in such a graphic and/or bloody manner as to exceed common limits of custom and candor, or in such a manner that it is apparent that the predominant appeal of the material is portrayal of violence for violence's sake.

(6) "Sado-masochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(7) "Obscene to minors" means that quality of any description or representation in whatever form, of nudity, sexual conduct, sexual excitement, excess violence, or sado-masochistic abuse, when it:

(a) Predominantly appeals to the prurient, shameful or morbid interest of minors; and

(b) It is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(c) It is utterly without redeeming social importance for minors.

(8) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both:

(a) The character and content of any material described herein which is reasonably susceptible of examination by the defendant, and

(b) The age of the minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant makes a reasonable bona fide attempt to ascertain the true age of such minor. (1981 Code, § 10-206)

**11-803. Unlawful to disseminate obscene materials to minors.** It shall be unlawful for any person knowingly to sell or loan for monetary consideration or otherwise exhibit or make available to a minor:

(1) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct, excess violence, or sado-masochistic abuse, and which is obscene to minors;

(2) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any material enumerated in paragraph (1) hereof above, or which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, excess violence or sado-masochistic abuse and which is obscene to minors. (1981 Code, § 10-207)

**11-804. Unlawful to sell tickets to obscene presentations to minors.** It shall be unlawful for any person knowingly to exhibit to a minor for monetary consideration, or knowingly to sell to a minor, an admission ticket or pass or otherwise to admit a minor to premises whereon there is exhibited a motion picture, show or other presentation which in whole or in part depicts nudity, sexual conduct, excess violence, or sadomasochistic abuse, and which is obscene to minors. (1981 Code, § 10-208)

**11-805. Defenses.** In any prosecution under §§ 11-803 and 11-804 for disseminating obscene material to minors, it is an affirmative defense that:

(1) That the person or persons under eighteen (18) years of age to whom the material or show was made available or exhibited were at the time accompanied by their parent or legal guardian, or by an adult with the written permission of the parent or legal guardian.

(2) The defendant had reasonable cause to believe that the minor involved was eighteen (18) years old or more, and such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was eighteen (18) years old or more. (1981 Code, § 10-209)

**11-806. Unlawful for minors knowingly to purchase obscene materials--falsification of age.** It shall be unlawful for any minor knowingly to purchase or accept as a loan for monetary consideration any obscene material as set forth in § 11-803 or to purchase an admission ticket or pass to an obscene motion picture show or other presentation as set forth in § 11-804. The display of a sign "For Adults Only" or "For Mature Audience" or words of similar import shall be admissible as showing that the minor knew or should have known of the character of the material and of his duty to further inquire. It shall further be unlawful for any minor to give his age falsely as eighteen (18) years of age or over for the purpose of purchasing material as set forth in § 11-803 or of gaining admittance to the exhibition of the material set forth in § 11-804. (1981 Code, § 10-210)

**11-807. Penalty.** Violation of any of the provisions of §§ 11-803, 11-804 and 11-806 shall be a misdemeanor. (1981 Code, § 10-211)

**11-808. Public indecency.** (1) It shall be unlawful for any person to perform in a public place, or for any person who owns or operates premises constituting a public place to permit or allow, the following acts or conduct:

(a) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by laws, including but not limited to the actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals in public.

(b) To appear in a state of "nudity." For purposes of this section, "nudity" shall mean the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, showing of the female breast with less than full opaque covering of any portion of the nipple or the showing of covered male genitals in a discernible turgid state.

(2) For the purpose of this section, "public place" shall include: streets, sidewalks, or highways; transportation facilities; schools; places of amusement; parks; playgrounds; restaurants; nightclubs; cocktail lounges; burlesque houses; bars; cabarets; taverns; taprooms; private fraternal, social, golf or country clubs;

or any place that allows the consumption of intoxicating beverages on the premises.

(3) Any person violating any of the promises of this section shall be subject to all penal provisions provided by laws.

(4) Any violations of this section shall be a public nuisance and shall be subject to abatement by injunction. (1981 Code, § 10-212)

**TITLE 12****BUILDING, UTILITY, ETC. CODES****CHAPTER**

1. APPLICABLE CODES
- 2.--17. [DELETED].
18. [REPEALED].

**CHAPTER 1****APPLICABLE CODES****SECTION**

- 12-101. Shelby County codes effective within city.
- 12-102. Fees for services.
- 12-103. Fees for curb cuts and sidewalks.
- 12-104. Deleted.

**12-101. Shelby County codes effective within city.** The construction codes, including but not limited to building, electrical, energy conservation, gas, mechanical, plumbing, fire and housing codes, in effect in unincorporated Shelby County shall also be effective within the corporate limits and shall be enforced by Shelby County and/or City of Millington personnel. (1981 Code, § 4-101, as amended by Ord. #1996-1, March 1996, and Ord. #2001-17, Dec. 2001, replaced by Ord. #2005-4, May 2005, amended by Ord. #2007-9, Aug. 2007, replaced by Ord. #2009-8, June 2009, amended by Ord. #2014-14, Oct. 2014, and replaced by Ord. #2015-8, June 2015, and Ord. #2021-11, Aug. 2021 *Ch17\_01-09-23*)

**12-102. Fees for services.** The city's fee will be the fees established from time to time by the Memphis and Shelby County Office of Construction Code Enforcement times a factor of 1.33 in order to cover the costs incurred by both the city and the Memphis and Shelby County Office of Construction Code Enforcement. (1981 Code, § 4-102, as replaced by Ord. #2005-4, May 2005, Ord. #2009-8, June 2009, and Ord. #2015-8, June 2015)

**12-103. Fees for curb cuts and sidewalks.** The city's fee for review and approval of installation, removal or replacement of a curb cut or sidewalk shall be thirty dollars (\$30.00) for each curb cut and each sidewalk. (1981 Code, § 4-103, modified, as deleted by Ord. #2015-8, June 2015, and replaced by Ord. #2015-21, Dec. 2015)

**12-104. Deleted.** (as deleted by Ord. #2015-08, June 2015)

**CHAPTER 2-17**

(These chapters were deleted by Ord. #2015-08, June 2015)

**CHAPTER 18**

**[REPEALED]**.

(This chapter was repealed by Ord. #2021-11, Aug. 2021 *Ch17\_01-09-22*)

## TITLE 13

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

#### CHAPTER

1. GENERAL.
2. EXTERIOR PROPERTY AREAS.
3. EXTERIOR STRUCTURE.
4. RUBBISH AND GARBAGE.
5. PARKING AND STORAGE OF VEHICLES.
6. JUNK VEHICLE REGULATIONS.
7. BETTER PROPERTY ORDINANCE.
8. FENCES.

#### CHAPTER 1

#### GENERAL

#### SECTION

- 13-101. Scope.  
 13-102. Responsibility.  
 13-103. Vacant structures and land.  
 13-104. Enforcement.  
 13-105. Conflict with title 12 chapter 1.  
 13-106. Deleted.

**13-101. Scope.** The provisions of this chapter shall govern the minimum conditions and the responsibilities for maintenance of structures, equipment, and exterior property. (1981 Code, § 8-901, as replaced by Ord. #2017-14, Sept. 2017)

**13-102. Responsibility.** The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit are responsible for keeping in a clean, sanitary, and safe condition that part of the dwelling unit or premises

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<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-211(9).



which they occupy and control. (1981 Code, § 8-902, as replaced by Ord. #2017-14, Sept. 2017)

**13-103. Vacant structures and land.** All vacant structures and premises thereof or vacant land shall be maintained in a clean safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety. (1981 Code, § 8-903, as replaced by Ord. #2017-14, Sept. 2017)

**13-104. Enforcement.** The city manager shall designate an appropriate department or person to enforce all the provisions of title 13. (1981 Code, § 8-904, as replaced by Ord. #2017-14, Sept. 2017)

**13-105. Conflict with title 12 chapter 1.** The intent of the enactment of this title is not to conflict with title 12 chapter 1 in particular provisions and regulations, and in the case of a conflict title 12 chapter 1 shall supersede any provision or regulation herein. (1981 Code, § 8-905, modified, as replaced by Ord. #2011-7, May 2012, and Ord. #2017-14, Sept. 2014)

**13-106. Deleted.** (1981 Code, § 8-906, as amended by Ord. #2003-28, Dec. 2003, replaced by Ord. #2011-7, May 2012, and deleted by Ord. #2017-14, Sept. 2017)

## CHAPTER 2

### EXTERIOR PROPERTY AREA

#### SECTION

- 13-201. Sanitation.
- 13-202. Grading and drainage.
- 13-203. Pollution of waters.
- 13-204. Stagnant water.
- 13-205. Sidewalks and driveways.
- 13-206. Overgrown and dirty lots.
- 13-207. Rodent harborage.
- 13-208. Exhaust vents.
- 13-209. Accessory structures.
- 13-210. Swimming pools.
- 13-211. Defacement of property.

**13-201. Sanitation.** All exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The occupant shall keep that part of the exterior property, which such occupant occupies or controls, in a clean and sanitary condition. (as replaced by Ord. #1998-18, Jan. 1999, and Ord. #2017-14, Sept. 2017)

**13-202. Grading and drainage.** All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulations of stagnant water thereon, or within any structure located thereon.

Exception: Approved retention areas and reservoirs. (as replaced by Ord. #2017-14, Sept. 2017)

**13-203. Pollution of waters.** No deleterious or poisonous substance shall be thrown or be caused, permitted, or allowed to run or be washed into any waters, either private or public, in quantities injurious to fish life, or which could be injurious to the propagation of fish. (as replaced by Ord. #1998-18, Jan. 1999, and Ord. #2017-14, Sept. 2017)

**13-204. Stagnant water.** It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on any of his property located within the corporate limits. (as replaced by Ord. #1998-18, Jan. 1999, and Ord. #2017-14, Sept. 2017)

**13-205. Sidewalks and driveways.** All sidewalks, walkways, stairs, driveways, drive aprons, parking spaces, and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. (as replaced by Ord. #1998-18, Jan. 1999, and Ord. #2017-14, Sept. 2017)

**13-206. Overgrown and dirty lots.** (1) Prohibition. It shall be unlawful for any owner of record of real property to create, maintain, or permit to be created or maintained on such property the growth of trees, vines, grass, underbrush, flowers, plants or any landscaping material and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of insects, reptiles, rats and other harmful animals. For purposes of this prohibition, grass of any kind (including monkey or mondo grass) that exceeds six inches (6") in height on any property, whether residential or commercial, shall be deemed to violate this section.

(2) Notice to property owner. It shall be the duty of the department or person designated by the city manager to enforce this section to serve notice upon the occupant and owner of record in violation of subsection (1) above, a written notice in plain language to remedy the condition within ten (10) days. The notice shall be sent by certified United States mail, addressed to the last known address of the owner of record, and/or hand delivered to the occupant. The notice shall state that the owner of the property is entitled to a hearing before the city's director of economic development and planning and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of §13-206 of the Millington Municipal Code, which has been enacted under the authority of the board of mayor and aldermen, and that if the owner does not clean up the property within the time allotted, the property of such owner may be cleaned up by the city or its agent at the expense of the owner and a lien placed against the property to secure the cost of the clean-up.

(b) Such notice shall also state that in addition to the placing of a lien, the city may also cite the offender to city court as set out in subsection (7) below.

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

(3) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition or to request a hearing before the director of economic development and planning within ten (10) days after receiving the notice, the department or person designated to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards in the City of Millington, and the costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of

the Shelby County Trustee, the costs shall be a lien on the property in favor of the city, second only to liens of the state, county, and municipality for taxes, any lien of the city for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the city as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(4) Appeal/hearing. The owner of record who is aggrieved by the determination and order of the codes enforcement officer or other person designated to enforce this section may appeal the determination and order to the director of economic development and planning. The appeal shall be filed with director of economic development and planning within ten (10) days of the notice issued pursuant to subsection (2) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(5) Judicial review. Any person aggrieved by an order or act of the enforcement officer or the director of economic development and planning may seek judicial review of the order or act. The time period established in subsection (2) above shall be stayed during the pendency of judicial review. However, where safety and health conditions are prevalent; actions shall be taken to correct these conditions immediately.

(6) Supplemental nature of this section. The provisions of this §13-206 are in addition and supplemental to, and not in substitution for, any other provision in the city's charter, the Millington Municipal Code (including property management codes adopted by the city), or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements.

(7) Violations/penalty. In addition to the liability for costs of remedy or removal of any condition described in this §13-206, any property owner who violates this section may be cited to city court, and shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this section. Each day the violation continues after delivery of written notice to the property owner in accordance with this section shall be considered a separate violation.

(8) One annual notice of violation. One (1) notification of violation will be sent per calendar year. If the property owner allows continued violations as described in §13-206(1) to occur, the city will take action to remedy the violation and the costs will be appropriated as outlined in §13-206(3). (as replaced by Ord. #1998-18, Jan. 1999, and Ord. #2017-14, Sept. 2017)

**13-207. Rodent harborage.** All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes, which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation. (as added by Ord. #2017-14, Sept. 2017)

**13-208. Exhaust vents.** Pipe, ducts, conductors, fans, or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant. (as added by Ord. #2017-14, Sept. 2017)

**13-209. Accessory structures.** All accessory structures, including detached garages, fences, and walls, shall be maintained structurally sound, clean, and in good repair. (as added by Ord. #2017-14, Sept. 2017)

**13-210. Swimming pools.** Swimming pools shall be maintained in a clean, safe and sanitary condition, and meet all codes for swimming pools per MMC §12-1801. (as added by Ord. #2017-14, Sept. 2017)

**13-211. Defacement of property.** No person shall willfully or wantonly damage, mutilate, or deface any exterior surface of any structure on any private or public property by placing thereon any marking, carving, or graffiti. It shall be the responsibility of the property owner to restore said surface to an approved state of maintenance and repair. (as added by Ord. #2017-14, Sept. 2017)

## CHAPTER 3

### EXTERIOR STRUCTURE

#### SECTION

- 13-301. General.
- 13-302. Protective treatment.
- 13-303. Premises identification.
- 13-304. Structural members.
- 13-305. Foundation walls.
- 13-306. Exterior walls.
- 13-307. Roofs and drainage.
- 13-308. Decorative features.
- 13-309. Overhang extensions.
- 13-310. Stairways, decks, porches, and balconies.
- 13-311. Chimneys and towers.
- 13-312. Handrails and guards.
- 13-313. Window, skylight, and door frames.
- 13-314. Doors.
- 13-315.--13-318. Deleted.

**13-301. General.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

**13-302. Protective treatment.** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

**13-303. Premises identification.** Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall be a minimum of four

inches (4") high and one-half inch (1/2") wide, and contrast with their background. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

**13-304. Structural members.** All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

**13-305. Foundation walls.** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

**13-306. Exterior walls.** All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

**13-307. Roofs and drainage.** The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

**13-308. Decorative features.** All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

**13-309. Overhang extensions.** All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

**13-310. Stairways, decks, porches and balconies.** Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and

capable of supporting the imposed loads. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

**13-311. Chimneys and towers.** All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment. (as added by Ord. #2010-09, May 2010, and Ord. #2017-14, Sept. 2017)

**13-312. Handrails and guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

**13-313. Window, skylight and door frames.** Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

**13-314. Doors.** All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. All means of egress doors shall readily open from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the International Building Code. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

**13-315.--13-318. Deleted.** (as deleted by Ord. #2017-14, Sept. 2017)



## CHAPTER 4

### **RUBBISH AND GARBAGE**

#### **SECTION**

13-401. Accumulation of rubbish or garbage.

13-402. Disposal of rubbish or garbage.

13-403. Containers.

**13-401. Accumulation of rubbish or garbage.** All exterior property and premises, and the interior of every structure shall be free from any accumulation of rubbish or garbage. This includes discarded items, auto parts, appliances, furniture, building materials, tires, paper, cardboard, plastics, dead limbs, and branches. (as added by Ord. #2017-14, Sept. 2014)

**13-402. Disposal of rubbish or garbage.** Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish and garbage in an approved garbage container per MMC §17-106. (as added by Ord. #2017-14, Sept. 2014)

**13-403. Containers.** The operator or resident of each establishment producing garbage shall provide, and at all times cause to be utilized, approved leak-proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal. (as added by Ord. #2017-14, Sept. 2014)

## CHAPTER 5

### PARKING AND STORAGE OF VEHICLES

#### SECTION

- 13-501. Parking, storage, leaving inoperable vehicles.
- 13-502. Parking, storage and use of recreational vehicles and equipment.
- 13-503. Parking on approved surfaces.
- 13-504. Commercial vehicles and equipment.
- 13-505. Conflict with title 15 chapter 6.

**13-501. Parking, storage, leaving inoperable vehicles.** No person shall park, store, or leave or permit the parking, storing, or leaving of any vehicles which is in a rusted, wrecked, junked, or partially dismantled, inoperable, has one (1) or more flat or missing tires, unlicensed, or abandoned condition upon any property within the city for a period in excess of forty-eight (48) hours unless such a vehicle is completely enclosed within a building, or unless such vehicle is so stored or parking on such property in connection with a duly licensed business or commercial enterprise operated and conducted pursuant to law when such parking or storing of vehicles is necessary to the operation of the business or commercial enterprise. (as added by Ord. #2017-14, Sept. 2014)

**13-502. Parking, storage and use of recreational vehicles and equipment.** "Recreational vehicles" shall include boats, wave runners, trailers and other vehicles designed for living or camping, and all other similar vehicles or equipment. No person shall park or store or permit the parking or storing of more than one (1) boat and boat trailer, and no more than one (1) camping trailer or recreational vehicles per dwelling unit. No part of such parking or storage area shall be located in a front yard. No person or business shall park or store or permit the parking or storing of any recreational vehicles in front of any business unless such business is involved in the sale or leasing of recreational vehicles. Such recreational vehicles shall not be used for living, sleeping or housekeeping purposes. It shall be unlawful for any person to park or store any recreational vehicles on any residential street in the city. (as added by Ord. #2017-14, Sept. 2014, as replaced by Ord. #2020-6, May 2020 *Ch16\_6-29-20*)

**13-503. Parking on approved surfaces.** All vehicles shall be parked or stored on asphalt, concrete, or other hard surface dustless materials as approved by the city, or completely enclosed within a building. (as added by Ord. #2017-14, Sept. 2014)

**13-504. Commercial vehicles and equipment.** Commercial trucks exceeding eight thousand (8,000) pounds or a truck tractor shall not be permitted to park, stand, or be stored on any residential property or a residential street. (as added by Ord. #2017-14, Sept. 2014)

**13-505. Conflict with title 15 chapter 6.** The intent of the enactment of this chapter is not to conflict with provisions of title 15 chapter 6 and in the case of a conflict title 15 chapter 6 shall supersede any provision or regulation herein. (as added by Ord. #2017-14, Sept. 2014)

## CHAPTER 6

### JUNK VEHICLE REGULATIONS

#### SECTION

13-601. Junk vehicles declared a public nuisance.

13-602. Definitions.

13-603. Violations a civil offense.

13-604. Exceptions.

13-605. Enforcement.

13-606. Penalty for violations.

**13-601. Junk vehicles declared a public nuisance.** The accumulation and storage of junk vehicles on public and private property is hereby found to create an unsightly condition upon the property tending to reduce the value thereof, to invite plundering, to create fire and safety hazards, and to constitute an attractive nuisance creating a hazard to the health and safety of minors. The accumulation and storage of junk vehicles on public and private property is further found to promote urban blight and deterioration in the city and to violate the zoning regulations of the city. Such junk vehicles are in the nature of rubbish, litter, and unsightly debris in violation of health and sanitation laws. Therefore, the accumulation and storage of junk vehicles on public and private property, except as expressly hereinafter permitted, i.e. junk yards, is hereby declared to constitute a public nuisance. (as added by Ord. #2017-14, Sept. 2014)

**13-602. Definitions.** For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street which vehicles ordinarily use for travel.

(4) (a) "Vehicle" shall mean any machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, self-laying tracks, runner, slides or skids including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, buggies, wagons, and earth-moving equipment, and any part of such machines.

(b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in any one (1), or in a combination of any two (2) or more, of the following ways, that either makes the vehicle immediately

inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways, under its own power if self-propelled, or while being towed or pushed if not self-propelled:

(i) Flat tire, missing tire, missing wheel, or missing or partially or totally disassembled tire and wheel;

(ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including but not limited to engine, transmission, transaxle, drive shaft, differential or axle;

(iii) Extensive exterior body damage, or missing or partially or totally disassembled essential body parts, including but not limited to fenders, doors, engine hood, bumpers, windshield, or windows;

(iv) Missing, or partially or totally disassembled essential interior parts, including but not limited to driver's seat, steering wheel, instrument panel, clutch, brake or gear shift lever;

(v) Missing, or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including but not limited to starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator;

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle;

(vii) Vehicle is lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method; or

(viii) General environment in which the vehicle sits, including but not limited to vegetation that has grown up around, in or through the vehicle, collection of pools of water in the vehicle, or accumulation of other garbage or debris around the vehicle. (as added by Ord. #2017-14, Sept. 2014)

**13-603. Violations a civil offense.** It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or abandon the vehicle; or

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner

or operator of the vehicle did not intend to permanently desert or abandon the vehicle. (as added by Ord. #2017-14, Sept. 2014)

**13-604. Exceptions.** It shall be permissible for a person to park, store, keep and maintain a junk vehicle on private property under the following conditions:

(1) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance or other regulations governing the building in which such vehicle is enclosed or the property on which such building is located.

(2) The junk vehicle is parked or stored on property lawfully zoned for a business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, property maintenance and other regulations governing businesses engaged in wrecking, junking or repairing vehicles or the property on which any such business is located. (as added by Ord. #2017-14, Sept. 2014)

**13-605. Enforcement.** (1) This chapter may be enforced in accordance with Tennessee Code Annotated (hereinafter referred to as "T.C.A." § 7-63-101 et seq.) as follows:

(a) If the violation of this chapter occurs in the presence of a law enforcement officer or a member of the fire department or building department who is designated as a special police officer of the city, or if such officer makes a personal investigation of the place of violation and has reasonable and probable grounds to believe that the owner or occupant of property involved in a violation has violated this chapter, such officer shall issue to the offender a citation in lieu of arrest. Said citation shall contain a statement of the time and place the offender is to appear in court and a waiver of the issuance and service of a warrant, all as provided by T.C.A. §§ 7-63-101 and 7-63-102.

(b) If the offender refuses to sign the agreement to appear in court and to waive the issuance and service of a warrant, then the officer shall place the offender under arrest, take the offender before the proper authority, procure a warrant and serve the same upon the offender and book the offender as in other cases of violations.

(c) If the offender signs the agreement and waiver and then fails to appear for trial at the time and place designated, the court shall issue warrants and otherwise proceed in accordance with T.C.A. § 7-63-105.

(2) This chapter may also be enforced in accordance with T.C.A. § 7-63-201 et seq. as follows:

(a) If the city has made a designation of a municipal enforcement officer in accordance with said section, such officer may, upon witnessing a violation of this chapter, issue an ordinance summons to the offender. The ordinance summons shall show the offense charged and the time and place when the offender must appear in court.

(b) The ordinance summons shall be treated as a citation in lieu of arrest as described above and as provided for in T.C.A. §§ 7-63-102 and 7-63-103.

(c) If the offender refuses to sign the ordinance summons agreement to appear in court, the officer may have a summons issued by the clerk of the court, or may seek the assistance of a police officer to witness the violation. The police officer who witnesses the violation may issue a citation in lieu of arrest or make arrest for failure to sign the citation in lieu of arrest, as described above and as provided in T.C.A. § 7-63-104.

(d) Failure of the offender to appear for trial after signing the ordinance summons agreement shall cause the court having jurisdiction thereof to issue a warrant against the offender, as described above and as provided for in T.C.A. § 7-63-105. (as added by Ord. #2017-14, Sept. 2014)

**13-606. Penalty for violations.** Any person determined to be in violation of this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (as added by Ord. #2017-14, Sept. 2014)

## CHAPTER 7

### BETTER PROPERTY ORDINANCE

#### SECTION

- 13-701. Findings of board.
- 13-702. Definitions.
- 13-703. "Public officer" designated; powers.
- 13-704. Initiation of proceedings; hearing.
- 13-705. Orders to owners of unfit structures.
- 13-706. When public officer may repair, etc.
- 13-707. When public officer may remove or demolish.
- 13-708. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-709. Basis for a finding of unfitness.
- 13-710. Service of complaints or orders.
- 13-711. Enjoining enforcement of orders/exclusive remedy.
- 13-712. Additional powers of public officers.
- 13-713. Appeal to better property board.
- 13-714. Powers conferred are supplemental.
- 13-715. Structures unfit for human habitation deemed unlawful.
- 13-716. Renting unfit or dangerous property declared unlawful.
- 13-717. Severability.
- 13-718. Violations/penalty.

**13-701. Findings of board.** Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exist or may in the future exist in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, accumulation of debris, 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. (as added by Ord. #2017-14, Sept. 2014)

**13-702. Definitions.** (1) "Better property board," for purposes of this chapter 7 shall mean the Board of Zoning Appeals of the City of Millington.

(2) "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.

(3) "Governing body" shall mean the board of mayor and aldermen of the city.



(4) "Municipality" or "city" shall mean the City of Millington, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(5) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

(6) "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.

(7) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which trade of the general public is solicited.

(8) "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 the State of Tennessee relating to health, fire, building regulations, or other activities concerning structures located within the city.

(9) "Public officer" means any officer or officers of the city, or the executive director or other chief executive officer of any commission or authority established by the city or jointly with any other municipality, who is authorized by this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(10) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (as added by Ord. #2017-14, Sept. 2014)

**13-703. "Public officer" designated; powers.** There is hereby designated and appointed a "public officer," who shall be any one of the following: the director of planning and economic development, the city engineer or the building official of the city, or such other person as may be appointed by the city manager, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the director of economic development and planning, the building official and codes enforcement officer. (as added by Ord. #2017-14, Sept. 2014)

**13-704. 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. 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. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (as added by Ord. #2017-14, Sept. 2014)

**13-705. 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 and removal of accumulated debris 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 and remove accumulated debris to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (as added by Ord. #2017-14, Sept. 2014)

**13-706. 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, or to remove accumulated debris, the public officer may cause accumulated debris to be removed, or such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (as added by Ord. #2017-14, Sept. 2014)

**13-707. When public officer may remove or demolish.** If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (as added by Ord. #2017-14, Sept. 2014)

**13-708. Lien for expenses; sale of salvaged materials; other powers not limited.** (1) The amount of the cost of such removal of debris, repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed

against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, be a lien on the property in favor of the city, second only to liens of the state, county and city for taxes, any lien of the city for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes as set forth in Tennessee Code Annotated, §§ 67-5-2010 and 67-5-2410.

(2) In addition, the city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Shelby County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #2017-14, Sept. 2014)

**13-709. Basis for a finding of unfitness.** The public officer defined herein shall have the power to, and may determine that a structure is unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions which render such structure unsafe or unsanitary or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the city. (as added by Ord. #2017-14, Sept. 2014)

**13-710. 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 certified 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. (as added by Ord. #2017-14, Sept. 2014)

**13-711. Enjoining enforcement of orders/exclusive remedy.** (1) Any person affected by an order issued by the public officer or the better property board served pursuant to this chapter may file suit in Shelby County Chancery Court for an injunction restraining the public officer or better property board 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 such suit must be filed in chancery court within sixty (60) days after the posting and service of the order of the public officer or the better property board. If no suit is filed in chancery court by such time, the public officer or better property board shall be entitled to alter, repair, improve, remove, vacate or demolish the structure as provided in the order.

(2) The remedy provided herein shall be the exclusive remedy, and no person affected by an order of the public officer or the better property board shall be entitled to recover any damages for action taken pursuant to any order of the public officer or better property board, or because of noncompliance by such person with any such order. (as added by Ord. #2017-14, Sept. 2014)

**13-712. Additional powers of public officer.** The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall still have the following powers in addition to those otherwise granted therein:

(1) To investigate conditions of the structures in the city in order to determine which structures 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. #2017-14, Sept. 2014)

**13-713. Appeal to better property board.** (1) Any owner or party in interest who receives an order from the public officer as described in §13-705 shall have the right to appeal the public officer's order to the better property board, provided a notice of appeal is delivered to the public officer within ten (10) days after the date of service of the order. The better property board shall notify the public officer, the owner and the parties in interest of the date, time

and place of the hearing before the better property board, which hearing shall be held within twenty (20) days of the date of the notice. At such hearing, the public officer, the owner and each party in interest shall have the right to appear in person or otherwise, give testimony and present evidence. The rules of evidence prevailing in courts of law or equity shall not be controlling in such hearings, but the better property board must be satisfied by the clear preponderance of creditable evidence as to the facts.

(2) If after the hearing of the appeal the better property board upholds the order of the public officer, it shall state in writing its determination to that effect and its findings of fact in support of such determination and shall caused to be served upon the owner and parties in interest the following:

(a) An order requiring the owner within the time specified in the order to repair, alter, clear debris from or otherwise improve the property to render it fit or safe, or to temporarily vacate the property and close any buildings thereon during the repair, alteration or improvement process; or

(b) An order requiring the owner within the time specified in the order to permanently vacate the property and remove or demolish any buildings thereon if the repair, alteration or improvement of such property cannot be made at a reasonable cost (fifty percent (50%) or more of the value) in relation to the value of the property.

(3) If the owner or other parties in interest fail to comply with an order of the better property board within the time stated in the order, the provisions of §§13-706, 13-707 and 13-708 shall apply.

(4) If any owner fails to appeal to the better property board within the time provided in this §13-713, the order of the public officer shall be final, subject to the owner's rights under §13-711. (as added by Ord. #2017-14, Sept. 2014)

**13-714. 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. #2017-14, Sept. 2014)

**13-715. Structures unfit for human habitation deemed unlawful.** It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to

the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (as added by Ord. #2017-14, Sept. 2014)

**13-716. Renting unfit or dangerous property declared unlawful.**

It shall be unlawful for any owner or any party in interest of real property to rent or offer for rent any real property that is unfit or dangerous due to dilapidation, defects that increase hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or due to other conditions that render such property unsafe, unsanitary or dangerous and detrimental to the health, safety or morals or otherwise inimical to the welfare of residents of the city. (as added by Ord. #2017-14, Sept. 2014)

**13-717. Severability.** The provisions of this chapter are declared to be severable. If any provision of this chapter should be declared by a court of competent jurisdiction to be invalid or unenforceable, the portions of this chapter not so declared shall continue in full force and effect. (as added by Ord. #2017-14, Sept. 2014)

**13-718. Violations/penalty.** Violation of this chapter shall subject the offender to a penalty of fifty dollars (\$50.00), which shall be in addition to any costs for which the offender is liable under this chapter. Each day that a violation exists after the date of service by the public officer of an order described in §13-705 shall constitute a separate offense, provided that such order is either not appealed to, or is upheld on appeal by, the better property board. (as added by Ord. #2017-14, Sept. 2014)

## CHAPTER 8

### FENCES

#### SECTION

- 13-801. Fence material.
- 13-802. Fence location.
- 13-803. Fence dimensions.
- 13-804. General fence requirements.
- 13-805. Scope.

**13-801. Scope.** It shall be unlawful for any contractor, individual or property owner to commence the installation of a fence until the City of Millington has issued a fence permit for such work. Any fence permit issued in conflict with the provisions of this section shall be null and void. It shall be the responsibility of the contractor, individual, or property owner to correct any violations that may exist as determined by the city within a reasonable time period as specified by the city. (as added by Ord. #2020-19, Jan. 2021 *Ch17\_01-09-23*)

**13-802. Fence material.** Fences in side and rear yards must be constructed of customary fence construction materials including but not limited to wood, brick, stone, polyvinyl chloride (PVC), wrought iron, and concrete fence panels. Chain link fencing may be provided in the side or rear yards, provided it is not visible from the street. All fences visible from the street shall not be chain link.

Materials for fences to be constructed in the front yard may be split rail, brick, wood or PVC picket, and wrought iron including those that have brick or stone columns. All others are subject to the approval of the Millington Planning Commission. The following materials are specifically prohibited, plain cinderblock, concrete block, metal mesh, chain link, sheet metal, barbed wire or other single wire fencing, except in the following instances: barbed wire fencing is permitted where the land is used for agricultural purposes, vinyl coated chain link and chain link is permitted on municipal and governmental facilities and when used for sports facilities to protect health, safety, and welfare. (as added by Ord. #2020-19, Jan. 2021 *Ch17\_01-09-23*)

**13-803. Fence location.** (1) All fences shall be installed completely on the property owner's property. A drawing indicating the location of the proposed fence in relation to the property line shall be submitted with the fence application. When adjacent property owners are in written agreement, a fence may be placed on the property line.

(2) No fence shall be an obstruction of vision as provided in the Millington Zoning Ordinance, § 14-401(8). In all districts, on a corner lot, within

the area formed by the centerlines of streets at a distance of one hundred feet (100') from their intersections, there shall be no obstruction of vision between a height of two and one-half feet (2 1/2') and a height of ten feet (10') above the average grade of such street or railroad at the centerline thereof. The requirements of this section shall not be deemed to prohibit any necessary retaining wall. In instances of streets with more than a single lane in each direction, i.e. two (2) or more lanes in each direction, on a corner lot, within the area formed by the intersections of the outer or right hand lanes of each street at a distance of one hundred feet (100') from their intersection, there shall be no obstruction of vision between a height of two and one-half feet (2 1/2') and a height of ten feet (10') above the average grade of such street or railroad at the intersection thereof. This shall not prohibit any necessary retaining wall. The board of zoning appeals may reduce this requirement where safety conditions will not be impaired.

(3) There is no minimum setback from a property line required for any fence located in a front yard which is forty-eight inches (48") in height or less, except no fence shall be an obstruction of vision as provided in (2) above. Where a gate is provided to an entrance of a fenced front yard, said gate shall be located at least twenty feet (20') from the property line to allow a space for the vehicle operator to exit the street and park to open the gate. (as added by Ord. #2020-19, Jan. 2021 *Ch17\_01-09-23*)

**13-804. Fence dimensions.** (1) Fences in front yards are limited to a height of forty-eight inches (48") in height. Periodic posts, columns, and lighting fixture or decorative details may exceed forty-eight inches (48") in height.

(2) Fences installed in side and rear yards may not exceed a height of eight feet (8').

(3) On corner lots, fences exceeding the forty-eight inch height may be permitted in the yard other than where the principal entrance to the structure is located. Provided however, that the fence is set back fifteen feet (15') from the street right-of-way.

(4) Where an eight foot (8') fence joins a six foot (6') fence, the fence height shall slope a distance of eight feet (8') between the two (2) fence heights. (as added by Ord. #2020-19, Jan. 2021 *Ch17\_01-09-23*)

**13-805. General fence requirements.** (1) On corner or double frontage lots, all fences shall have the finished side towards the street. Where a fence abuts a common open space, parkland, greenbelt, or other public area, the finished side shall be toward the street or open space. Fences described above shall be maintained by the property owner or an established property owner's association.

(2) Fences must be installed to provide sufficient clearance from the bottom of the fences to the ground so drainage will flow freely and not negatively



impact any adjacent property owner. Fences located in or along a drainage easement shall have a minimum ground clearance of two inches (2").

(3) Fences located in public easements (utility, drainage, pedestrian and similar public easements) are subject to removal at the owner's expense in the event of maintenance or construction work within the public easement.

(4) Fences in non-residential and multiple family areas shall be subject to the specific requirements of the site plan review of the planning commission and shall meet the general requirements of the Millington Zoning Ordinance § 14-401(15).

(5) Lack of proper upkeep and maintenance of a fence shall constitute a violation of these regulations. Lack of proper maintenance shall include, but not be limited to, rotted or deteriorated structural members, broken or missing components, excessive sagging of structural members or warping or distortion of planks and fence materials. (as added by Ord. #2020-19, Jan. 2021 *Ch17\_01-09-23*)

**13-806. Applicability.** This fence chapter shall be applicable to all new fences constructed after the adoption of this chapter. Existing fences constructed prior to the adoption of this chapter shall not be subject to the requirements of the chapter. Those fences may be repaired or replaced with the same materials and at the same location as they were previously constructed. Provided however, any fence constructed prior to this chapter that is not located on the owner's property or is located within the street right-of-way shall be relocated when it is repaired or replaced. A permit shall be required for all fence replacements or change of materials. Maintenance or replacing small portions of an existing fence shall not require a permit. (as added by Ord. #2020-19, Jan. 2021 *Ch17\_01-09-23*)

**TITLE 14****ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. TITLE, INTENT AND PURPOSE.
3. ESTABLISHMENT OF DISTRICTS AND OFFICIAL ZONING MAP.
4. GENERAL PROVISIONS.
5. DEFINITIONS.
6. RESIDENTIAL DISTRICT PROVISIONS.
7. COMMERCIAL DISTRICT PROVISIONS.
8. INDUSTRIAL DISTRICT PROVISIONS.
9. MILITARY ZONE PROVISIONS.
10. FLOOD DAMAGE PREVENTION.
11. AHR AIRPORT HEIGHT REGULATION AND AIRPORT CLEAR ZONE DISTRICT.
12. SPECIAL PROVISIONS.
13. ADMINISTRATION AND ENFORCEMENT.
14. BOARD OF ZONING APPEALS.
15. AMENDMENTS.
16. LEGAL STATUS PROVISIONS.
17. SUBDIVISION DEVELOPMENT.
18. TRAILER COACH PARKS.
19. WELLHEAD PROTECTION OVERLAY DISTRICT.
20. STORM WATER MANAGEMENT AND POLLUTION CONTROL.
21. CEMETERIES AND MAUSOLEUMS.
22. MIXED USE PLANNED DEVELOPMENTS.
23. OLD TOWN DISTRICT PROVISIONS.
24. SIGN ORDINANCE.
25. VETERANS PARKWAY CORRIDOR OVERLAY ZONE.
26. ENTERTAINMENT RECREATION DISTRICT.
27. FIREWORKS SALES OVERLAY DISTRICT.

**CHAPTER 1****MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Training.

**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 for the

City of Millington. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one, two, three, four, and five years respectively so that the term of one member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his pleasure. (1981 Code, § 11-101)

**14-102. Organization, powers, duties, etc.** The planning commission shall have such organization, rules, staff, powers, functions, duties and responsibilities as are prescribed in the general law relating to municipal planning commissions in title 13 of the Tennessee Code Annotated. (1981 Code, § 11-102)

**14-103. Training.** Planning commissioners shall not be required to obtain training as required by Tennessee Code Annotated, § 13-4-101(c). (as added by Ord. #2017-4, April 2017)

## CHAPTER 2

### TITLE, INTENT AND PURPOSE

#### SECTION

14-201. Title.

14-202. Intent and purpose.

**14-201. Title.** (1) Long title. An ordinance, in pursuance of the authority granted by Tennessee Code Annotated, §§ 13-7-201 through 13-7-210, to provide for the establishment of districts within the corporate limits of Millington, Tennessee: to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot occupancy, the size of open spaces, the density of population, and the uses of land, buildings and other structures, the percentage of lot occupancy, the size of open spaces, the density of population, and the uses of land, buildings and other structure for trade, industry, residence, recreation, public activities and similar purposes; to provide regulations governing nonconforming uses and structures; to provide for a board of appeals and for its powers and duties; to provide for permits; to establish and provide for the collection of fees; to provide for the administration of the zoning ordinance and for the official whose duty it shall be to enforce the provisions thereof; to provide penalties for the violation of the zoning ordinance; and to provide for conflicts with other ordinances or regulations.

(2) Short title. Chapters 2-15 may be cited as the Zoning Ordinance of Millington, Tennessee. The map portion may be cited separately as the Zoning Map of Millington, Tennessee. (1981 Code, § 11.201)

**14-202. Intent and purpose.** Chapters 2-15 are enacted pursuant to Tennessee Code Annotated, title 13, for the following purposes:

(1) To promote and protect the public health, safety, morals, comfort, convenience, and general welfare of the people.

(2) To divide the city into zones and districts restricting and regulating herein the location, construction, reconstruction, alteration, and use of buildings, structures, and land for residence, business, commercial, manufacturing and other specified uses;

(3) To protect the character and maintain the stability of residential, business, commercial, and manufacturing areas within the city, and to promote the orderly and beneficial development of such areas;

(4) To provide adequate light, air, privacy, and convenience of access to property;

(5) To regulate the intensity of open spaces surrounding buildings that is necessary to provide adequate light and air and protect the public health;

- (6) To establish building lines and the location of buildings designed for residential, business, commercial, manufacturing or other uses within such lines;
- (7) To fix reasonable standards to which buildings or structures shall conform;
- (8) To prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts;
- (9) To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder;
- (10) To limit congestion in the public streets and to protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles and for the loading and unloading of commercial vehicles;
- (11) To provide protection against fire, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort, and general welfare;
- (12) To prevent overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district, by regulating the use and the bulk of buildings in relation to the land surrounding them;
- (13) To conserve the taxable value of land and buildings throughout the city.
- (14) To provide the gradual elimination of those uses of land, buildings and structures, and of those buildings and structures which do not conform to the standards of the districts in which they are respectively located and which are adversely affecting the development and taxable value of property in each district;
- (15) To provide for the condemnation of such nonconforming buildings and structures and of land as the board of mayor and aldermen shall determine is necessary or appropriate for the rehabilitation of the area blighted by such buildings or structures;
- (16) To define and limit the powers and duties of the administration officers and bodies as provided herein; and
- (17) These general purposes include the specific purposes stated in the various chapters throughout this title. (1981 Code, § 11.202)

## CHAPTER 3

### ESTABLISHMENT OF DISTRICTS AND OFFICIAL ZONING MAP

#### SECTION

14-301. Establishment of districts.

14-302. Provisions for official zoning map.

**14-301. Establishment of districts.** In order to implement all purposes and provisions of the chapter, the lands within the corporate limits of the City of Millington, Tennessee, are divided into districts designated as follows:

- A Agricultural District
- R-0 Residential District (Lowest Density)
- R-1 Residential District (Low Density)
- R-2 Residential District (Medium Density)
- R-3 Residential District (Two-Family)
- R-4 Residential District (High Density)
- R-5 Residential Mobile Home Park District
- PRD Planned Residential District
- R-LL Residential District (Large Lot)
- B-1 Neighborhood Commercial District
- B-2 General Commercial District
- P-C Planned Commercial District
- O Office/Commercial District
- M-1 Light Industrial District
- M-2 General Industrial District
- M-3 Restricted Industrial District
- MT Military zone
- FH Flood Hazard Zone
- AHR Airport Height Restriction and Airport Clear Zone
- OT Old Town District

(1981 Code, § 11.301, as amended by Ord. #1997-3, May 1997, Ord. #2003-2, April 2003, and Ord. #2009-18, Oct. 2009)

**14-302. Provisions for official zoning map.** (1) Incorporation of map. The boundaries of districts established by this chapter are shown on the official zoning map which is hereby incorporated into the provisions of this ordinance. The zoning map in its entirety, including all amendments shall be as much a part of the zoning ordinance as is fully set forth and described herein.

(2) Identification of the official zoning map. The official zoning map shall be identified by the signature of the mayor attested by the city recorder and bearing the seal of the city under the following words: "This is to certify that this is the official Zoning Map referred to in § 14-302(2) of the Zoning Ordinance of the City of Millington, Tennessee," together with the date of the adopting of this ordinance.

(3) Replacement of official zoning map.<sup>1</sup> In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the board of mayor and aldermen may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such corrections shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor attested by the city recorder and bearing the seal of the city under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted \_\_\_\_\_ as part of Ordinance No. of the City of Millington, Tennessee". (1981 Code, § 11.302)

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<sup>1</sup>The official zoning map has been amended by the following ordinances of record in the city clerk's office: 1986-2, 1986-3, 1986-6, 1987-3, 1987-6, 1987-7, 1988-2, 1989-7, 1989-8, 1989-10, 1990-4, 1991-10, 1992-1, 1993-8, 1993-11, 1993-20, 1993-21, 1993-22, 1995-11 (Jan. 1996), 1995-13, 1995-15, 1995-17, 1995-19, 1996-4, 1996-6, 1996-7, 1996-9, 1997-5, 1997-6, 1997-12, 1997-15, 1997-16, 1998-1, 1998-17, 1999-6, 1999-11, 2000-4, 2000-05, 2000-07, 2000-19, 2000-21, 2001-2, 2001-13, 2001-14, 2002-3, 2002-14, 2003-5, 2003-11, 2003-12, 2003-13, 2003-14, 2003-18, 2003-22, 2003-23, 2003-24, 2003-25, 2003-26, 2003-33, 2003-35, 2003-37, 2003-39, 2003-41, 2003-43, 2003-45, 2003-46, 2003-48, 2004-1, 2004-4, 2004-6, 2004-7, 2004-8, 2004-17, 2004-18, 2005-6, 2005-7, 2005-12, 2005-13, 2005-14, 2005-15, 2005-17, 2008-1, 2008-12, and 2009-9.

## CHAPTER 4

### GENERAL PROVISIONS

#### SECTION

14-401. General provisions.

14-402. Use of existing additional building on residential lot.

**14-401. General provisions.** For the purpose of chapters 2-15, there shall be certain general provisions which shall apply to the city as a whole.

(1) Zoning affects every building and use. No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided.

(2) Continuance of nonconforming uses and structures. It is the intent of the zoning ordinance to recognize that the elimination as expeditiously as is reasonable, of the existing building, structures, or uses that are not in conformity with the provisions of the zoning ordinance is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of the zoning ordinance. It is also the intent of the zoning ordinance to administer the elimination of nonconforming uses, building and structures so as to avoid an unreasonable invasion of established private property rights. Lawful nonconforming uses, buildings and structures existing at the time of the passage of this ordinance or any amendment thereto shall be allowed to remain subject to the following provisions.

(a) An existing nonconforming use of a building may be changed to a conforming use or to another nonconforming use of the same classification, provided however, . that establishment of another nonconforming use of the same classification shall be subject to the written approval of the board of zoning appeals and subject to conditions as the board of zoning appeals may require in order to protect the area. See § 14-401(12).

(b) No existing non-conforming use or structure shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except as herein provided.

Non-conforming, commercial, business, and industrial uses created after the passage of Tennessee Acts of 1973, Chapter 279.1 shall be allowed to expand operations and reconstruct facilities which involve an actual continuance and expansion of activities of the business which were permitted and being conducted prior to the change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such business and that any construction,



improvements or reconstruction shall be in conformance with the district requirements in which it is located.

(c) Except as provided in Chapter 279.1 of the 1973 Tennessee Acts.

(i) A non-conforming use of land shall be restricted to the area occupied by such as the effective date of this ordinance. A non-conforming use of a building or buildings shall not be enlarged to either additional land or buildings after the effective date of this ordinance.

(ii) When non-conforming use of any building or land has ceased for a period of six (6) months, it shall not be re-established or changed to any other non-conforming use.

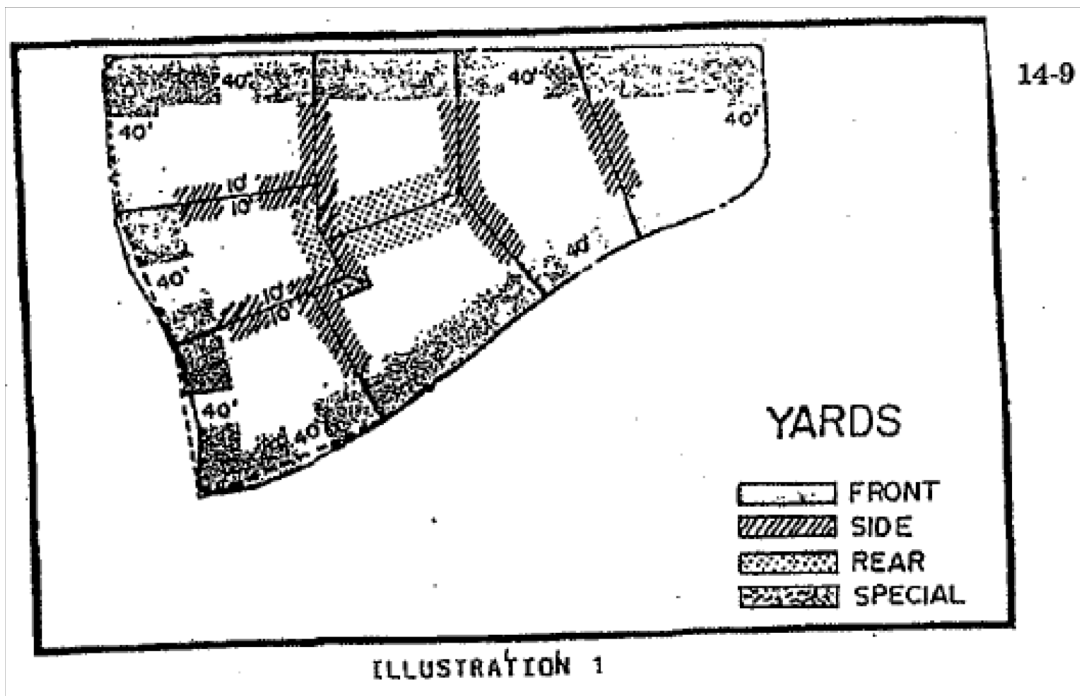
(iii) Any non-conforming building or nonconforming use, which is damaged by fire, flood, wind or other act of God or man, may be reconstructed and used as before if it is done within twelve (12) months of such damage, unless damaged to the extent of more than sixty (60) percent of its fair sales value immediately prior to damage, in which case any repair or reconstruction shall be in conformity with provisions of the zoning ordinance.

(iv) A non-conforming building or buildings housing a non-conforming use shall not be structurally altered except in conformance with the provisions of the zoning ordinance. This provision shall not be construed to prevent normal maintenance and repairs or alterations required for structural safety.

(3) Minimum required street frontage. No structure shall be erected on a lot which does not abut at least one public street and which meets the minimum lot width measured at the building setback line. The minimum required frontage shall be 50 feet, to be reduced to 35 feet for lots fronting on permanent cul-de-sacs or coves.

(4) Reduction in lot area prohibited. No lot even though it may consist of one or more adjacent lots of record shall be reduced in area so that yard requirements, lot area per family, lot width, building area, or other requirements of the zoning ordinance are not maintained. This section shall not apply when a portion of a lot is required for a public purpose.

(5) Any yard that abuts a public street. When a yard of a lot abuts a public street, all structures built in that yard shall observe the same setback from the street right-of-way or other yard requirements as required for adjacent properties which front on that street. (See Illustration 1)



(6) Front yards requirements in preexisting developments. The front yard requirements of this ordinance for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots, located within two hundred (200) feet on each side of such lot, is less than the minimum required front yard depth. In such cases, the depth of the front yard on such lot may be less than the required front yard, but not less than the average of the existing front yard depth on the developed lots. In residential districts, however, the front yard shall in no case be less than fifteen (15) feet in depth.

(7) Lots of record. Where the owner of a lot of official record at the time of the adoption of the zoning ordinance does not own sufficient land to enable him to conform to the yard or other requirements of the zoning ordinance, an application may be submitted to the board of zoning appeals for a variance from the terms of the zoning ordinance. Permission to use such lot as a building site may be granted, however, providing that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the board of zoning appeals, and it is a condition unique to the lot in question, is a condition not shared by the surrounding lots, and will not subvert the intent of this ordinance. Where two or more substandard lots of record with a continuous frontage are under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.

(8) Obstruction of vision at street intersections. In all districts, on a corner lot, within the area formed by the centerlines of streets at a distance of

one hundred (100) feet from their intersections, there shall be no obstruction of vision between a height of two and one-half (2 1/2) feet and a height of ten (10) feet above the average grade of such street or railroad at the centerline thereof. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.

In instances of streets with more than a single lane in each direction, i.e. two or more lanes in each direction, on a corner lot, within the area formed by the intersections of the outer or right hand lanes of each street at a distance of one hundred (100) feet from their intersection, there shall be no obstruction of vision between a height of two and one-half (2 1/2) feet and a height of ten (10) feet above the average grade of such street or railroad at the intersection thereof. This shall not prohibit any necessary retaining wall.

(a) The board of zoning appeals may reduce this requirement where safety conditions will not be impaired.

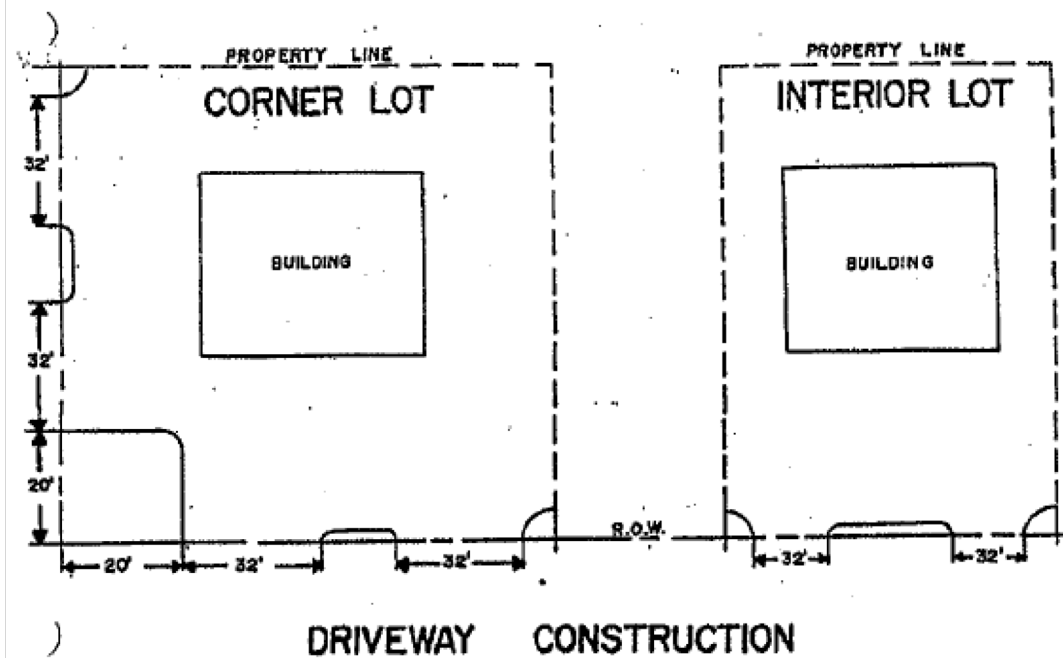
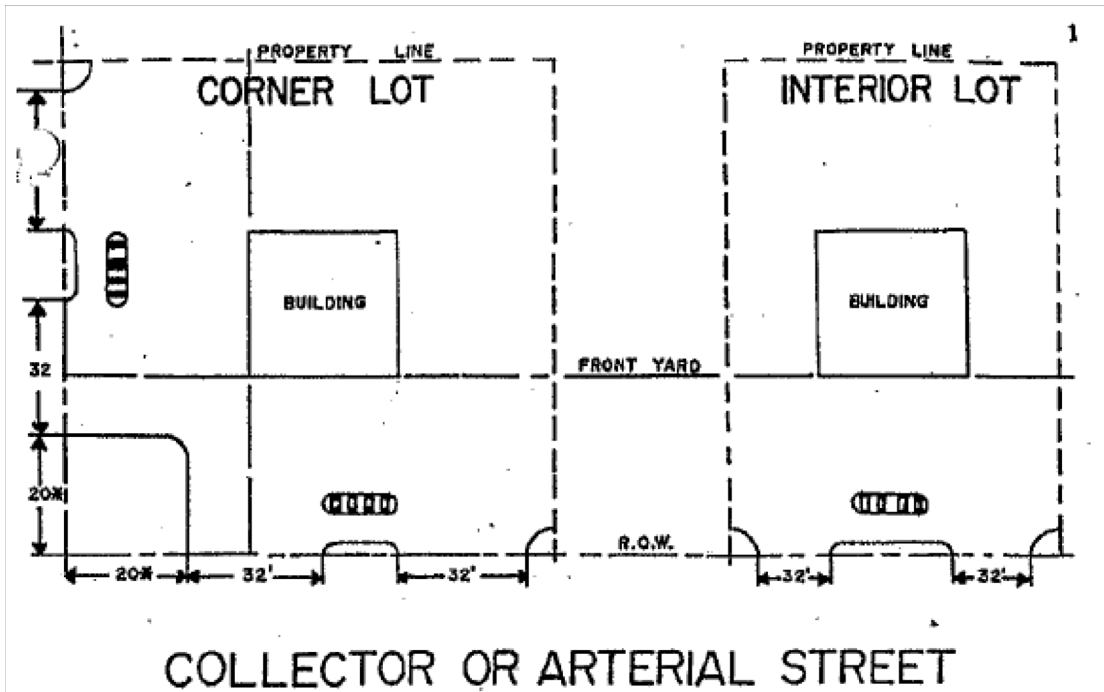
(9) Access control. In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following regulations shall apply:

(a) A point of access i.e., a drive or other opening for vehicles onto a street, shall not exceed thirty-two (32) feet in width. (See Illustration 2)

(b) There shall be no more than two (2) points of access to any one (1) public street in each one hundred (100) feet of frontage in any lot.

(c) No point of access shall be allowed within twenty (20) feet of the right-of-way of any public street intersection. On streets designated as collector or arterial such point of access shall be greater as required by the Millington Planning Commission.

(d) Cases requiring variances relative to the above provisions shall be heard and acted upon by the board of zoning appeals, provided, further, that no curb cuts for off-street automobile storage or parking space shall be permitted where the arrangements would require that vehicles back directly into a public street. This requirement shall not apply to existing commercial lots nor single or two-family developments in the R-1 through R-4 Districts.



\*OR GREATER AS DETERMINED BY THE BUILDING INSPECTOR

ILLUSTRATION 2

(10) Front yards. Front yards shall be measured from the street right-of-way. In the instance when the street right-of-way is unspecified, the following standards shall apply:

- (a) Minor residential and collector status streets
  - 50 feet right-of-way or
  - 25 feet from the street centerline.
- (b) Arterial streets
  - 70 feet right-of-way or
  - 35 feet from the street centerline.

(11) Interpretation of district boundaries. When district boundaries are indicated as approximately following streets, railroads or a stream or river the boundary shall be construed as following the centerline of the right-of-way or the centerline of the waterway.

(12) Interpretation of permitted uses. Permitted uses when in question shall be determined by utilization of the Standard Land Use Coding Manual. Uses will be considered similar if they are part of the same two digit code in the Standard Land Use Coding Manual.

(13) On-site disposal. Each multi-family residential, mobile home park, commercial, and industrial use shall provide a permanent area for the location of garbage collection boxes (dumpsters). Each location must be paved with a minimum of 4" of concrete, approved by the building inspector, and must provide an adequate area for both the box and the front wheels of the garbage collection truck. Such space shall be located to ensure continuous access for clearing and shall afford the collection truck direct access. In no instance shall the required concrete pad be smaller than 8'X14'. All such collection locations shall be screened and approved as set forth in § 14-1201.

(14) Landscaping. Required landscaping shall be in conformity with the zoning ordinance and as approved by either the Millington Building Inspector or Planning Commission, whichever has review responsibilities. All landscaped areas must be constructed and maintained as approved.

(15) Walls, fencing and screening. The following regulations establish standards for those districts where walls, fences and screens are required along side and rear lot lines and zoning district boundary lines. The standards established herein are minimum standards and shall be used in the review and approval of permitted, accessory or conditional uses which are subject to the requirements of this section.

(a) When a non-residential use or zone (with multi-family considered a nonresidential use for purposes of this section) is adjacent to a residential use or zone there shall be a wall or fencing around the nonresidential use. The finished side shall face the residential use with the planning commission or board of zoning appeals having the power to require both sides of the wall or fence to be finished sides. The wall or fence shall be one of the two types as listed below.

- (i) Fencing/screening shall consist of a wall six (6) feet in height, constructed of brick or other approved masonry materials.

(ii) Fencing/screening shall consist of a wall six (6) feet in height, constructed of solid wood or other approved opaque materials.

The planning commission shall have the power to allow fencing/screening which combines the approved types and/or which integrates plantings to complete the screening effect.

(b) When exterior storage of materials or sales products is used by a non-residential use the planning commission may require that the storage area shall be screened from view by those who are on the street and from view by occupants of the first floor of adjacent buildings by using one of the two screening options mentioned above.

(c) When a nonresidential use is adjacent to another nonresidential use the planning commission or, as in the case of special exemptions the board of zoning appeals, may require screening/fencing between the uses. Two options for the minimum requirements of screening are immediately below. During site plan review, as required by this zoning ordinance, by the planning commission (PC) or board of zoning appeals (BZA), the PC or BZA can require the minimum requirements be exceeded when judged necessary by the reviewing body. In instances where the planning commission or board of zoning appeals, during their review of the required site plan, as set forth in this zoning ordinance, determine that the nonresidential uses are compatible, screening between the non-residential uses can be waived.

(i) Fencing/screening shall consist of a forty-eight (48) inch (height) wall, constructed of brick or other approved masonry material. The wall should have the finished surface facing away from the proposed use. The planning commission may require that the wall be faced on both sides. In the cases of special exemption uses, the board of zoning appeals may require that the wall be faced on both sides or, in the case of walls with only one faced surface, may require the finished surface face away from the proposed use.

(ii) Fencing/screening shall consist of a forty-eight (48) inch solid wood or other approved material. The wall should have the finished surface facing away from the proposed use. The planning commission may require that the fencing/screening be faced on both sides. In the cases of special exemption uses, the board of zoning appeals may require that the fencing/screening be faced on both sides or, in the case of fencing/screening with only one faced surface, may require the finished surface face away from the proposed use.

(d) In instances where industrial uses are adjacent to each other the planning commission may at its option allow fencing/screening which shall consists of forty-eight (48) inch high chain link fence with fence

fabric inserts. In instances where the industrial uses adjacent to each other are compatible the fencing/screening between them can be waived.

(e) Fencing/screening maintenance. The owner, or his agent, shall be responsible for the maintenance, repair and replacement of all screening/fencing as may be required by the provisions of this section.

(f) Visual obstruction. In no instance shall such required fencing or screening present a visual obstruction to motor traffic entering or exiting the affected property, as set forth in § 14-401(8), nor shall this section be interpreted to conflict with other safety regulations of the City of Millington.

(16) Accessory uses. Within all residential areas accessory uses such as satellite dishes, pools, courts, which are permanently constructed or have a permanent foundation shall be screened, fenced or recessed so as to not be noticeable from the adjoining residentially zoned properties. This requirement shall not be construed to include accessory buildings such as garages, shops, gazebos or other structures built for use within. (1981 Code, § 11.401, as amended by Ord. #1997-1, March 1997, and Ord. #1997-7, June 1997)

**14-402. Use of existing additional building on residential lot.**

(1) Notwithstanding anything in title 14 of the Millington Municipal Code to the contrary, in the event any lot within zoning districts R-LL, R-O, R-1, R-2 and R-3 or any lot used for a single-family or two-family dwelling in zoning district R-4 should contain a principal building used as a residence and any additional building which was in existence and used as a residence prior to adoption of the zoning ordinance in 1986, and which building is in existence and used as a residence as of the effective date of the ordinance comprising this section, the lot owner shall be permitted to continue to use such additional building as a single family residence, as set out in this section.

(2) For health and safety purposes, the use of a building that is not the principal building on a single lot as a single family residence in accordance with § 14-402(1) shall be allowed only when the city building inspector, the city fire department and two (2) members of the board of adjustments and appeals for elimination of unsafe structures (the "inspecting officers") have inspected said building and agreed that it complies with applicable city codes, including but not limited to electrical, plumbing, gas and sanitation codes, that there is adequate access to such building for fire and police emergencies, and that it is structurally sound, so that it poses no threat to human life.

The first inspections shall be made as soon as practicable following the effective date of the ordinance comprising this section. If the property owner refuses to allow inspection of a non-principal building used as a residence, the building shall not thereafter be used for residential purposes, and any such use shall be deemed a violation of the zoning ordinance, for which a citation may be issued.

(3) If any such building is determined not to be in compliance with applicable codes, or if there is not adequate access to such building for fire and police emergencies, or if the building is determined to be structurally unsound, it may not be used as a residence. If the inspecting officers determine that such building is not in compliance with applicable codes, or if there is not adequate fire/police access, or if it is structurally unsound, the lot owner shall have up to ninety (90) days from the date of inspection to secure required all building permits and repair such building and request one (1) additional inspection. If the building is found to be in compliance with applicable codes and structurally sound and to have adequate access after the second inspection, it may be used as a single-family residence. If the building is determined not to be in compliance with applicable codes, to have adequate fire/police access or to be structurally sound at the second inspection, no further inspections will be made, and the building shall not be used for residential purposes. Use of a building other than the principal building on any lot for residential purposes other than as permitted by this § 14-402 shall be a violation of the zoning ordinance, for which a citation may be issued.

(4) If a building that has been used as a residence other than the principal building on a lot becomes vacant and remains vacant for ninety (90) days or more, there must be a new inspection before it may again be occupied as a residence. The requirements of subsections (2) and (3) above shall apply to any such inspection.

(5) No building allowed to be used as a residence under this § 14-402 other than the principal residence on a lot may be added on to or enlarged.

(6) If fifty percent (50%) or more of any building described in § 14-402(1) should be removed by the lot owner, or if any such building should be destroyed or damaged to an extent of fifty percent (50%) or more by fire, flood, tornado or other disaster, such building shall not be replaced or rebuilt and shall no longer be used as a residence.

(7) The owner of the lot upon which the principal building is located shall be billed for and shall be responsible to pay utilities, storm water fees, garbage fees and all other fees or charges owed to the city for any additional building allowed to be used as a residence on said lot.

(8) Except as expressly set out in this § 14-402, the following restrictions shall apply:

(a) There may be only one (1) principal residential building on any lot in zoning districts R-LL, R-O, R-1, R-2 and R-3 and lots used for single-family or two-family dwellings in zoning district R-4;

(b) No other structure on lots within these zoning districts may be used as a residence; and

(c) All provisions of title 14 which govern or restrict the number of principal buildings on any lot and/or the uses allowed on any lot shall remain in full force and effect.



(9) This section shall not apply to any lot which does not have legal access to a public road or street as required by the zoning ordinance, and no building on any such "landlocked" lot may be used as a residence or otherwise in a manner not in accordance with the requirements of title 14 of the Millington Municipal Code.

(10) Any violation of this section shall be a violation of the zoning ordinance and shall be treated in the same manner as any other violation of the zoning ordinance. Upon conviction of such violation, the property owner shall be liable for a fine of up to fifty dollars (\$50.00), and each day that a violation continues shall constitute a separate offense. (as added by Ord. #2009-21, Nov. 2009)

## CHAPTER 5

### DEFINITIONS

#### SECTION

14-501. Definitions.

14-502. Sexually oriented businesses; defined.

**14-501. Definitions.** Except as specifically defined herein all words used in the zoning ordinance have their customary dictionary definitions where not consistent with the context of the ordinance. The term "shall" is mandatory. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular number; the word "building" shall include the word "structure". In case of conflict between building code or dictionary definitions with the definitions contained in the zoning ordinance, the definition herein shall prevail.

The categories established herein to define the permitted uses are derived from the Standard Land Use Coding Manual and adapted to the particular needs of the City of Millington. The Standard Land Use Coding Manual provided as an appendix of the zoning ordinance is intended to serve as a guide in the determination of what uses are permitted in all districts.

(1) "Accessory building and use." A detached building or use subordinate to the principal building or use on the same lot and serving a purpose naturally and normally incidental to the principal building or use including swimming pools and satellite dishes.

(2) "Agriculture." See Code 81 of the Standard Land Use Coding Manual.

(3) "Agricultural related activities." See Code 82 of the Standard Land Use Coding Manual.

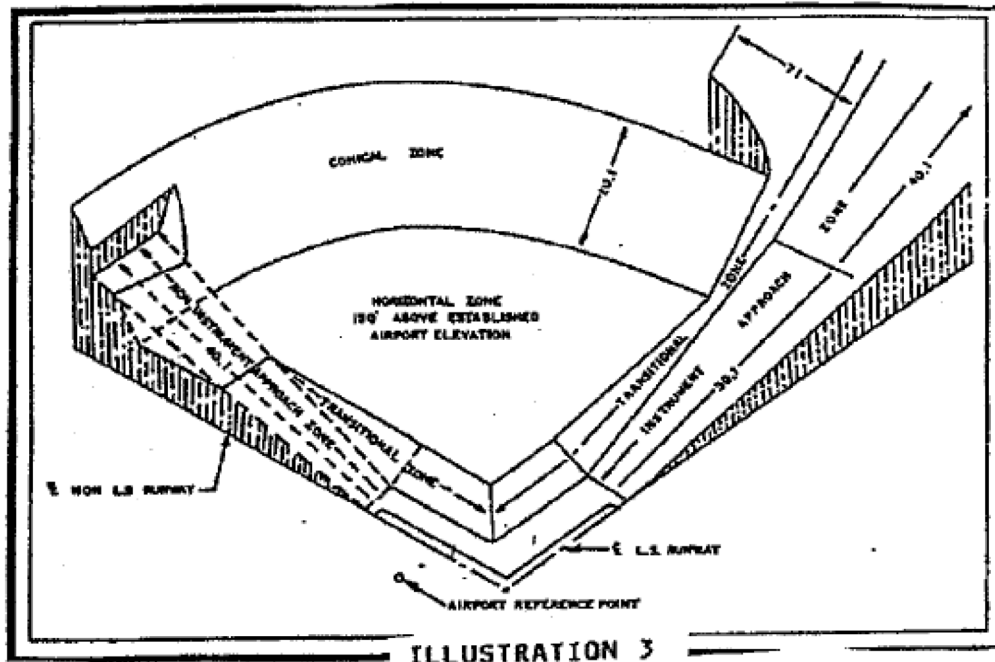
(4) "Airport." Millington Municipal Airport.

(a) "Airport elevation." The highest point of the airport's usable landing area measured in feet from mean sea level.

(b) "Airport hazard." Any structure or tree, or use of land which obstructs the air space required for the flight of aircraft in landing or taking off at an airport, or is otherwise hazardous to such landing or taking off of aircraft.

(c) "Airport hazard zone." Any land or water upon which an airport hazard might be established if not prevented by the zoning ordinance.

(d) "Approach zone." An area adjacent to the runways of an airport which must remain clear of obstructions due to incoming and out-going airplanes. The area must remain free of antennas, spires and any other obstruction (see Illustration 3).



(i) "Height." For the purposes of determining the height limit in all zones set forth in this chapter and shown on the airport hazard zoning map, the datum shall be mean sea level elevation unless otherwise specified.

(ii) "Instrument runway." A runway equipped or designated to be equipped by an approved airplane, with electronic air navigation aids adequate to permit the landing and takeoff of aircraft under restricted visibility conditions.

(iii) "Obstruction." Any tangible inanimate physical object, natural or artificial, protruding above the surface of the ground.

(iv) "Runway." A designated portion of the airport, as herein defined, prepared for landing and take-off of aircraft along the centerline of its longest dimension.

(v) "Structure." Any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, and the poles or other structures supporting the same.

(5) "Alley." A thoroughfare which affords only a secondary means of access to the abutting property and has a right-of-way width of ten (10) feet to thirty (30) feet.

(6) "Amusement." An establishment which provides: arcade type entertainments including such items as pinball machines, video games and pool tables; miniature golf; or other amusements. (See Code 73 in the Standard Land Use Coding Manual)

(7) "Automobile storage yard." Any land used for the parking and/or storage of one or more abandoned or impounded operable vehicles for which compensation is received.

(8) "Base flood." See one-hundred year flood.

(9) "Buffer strip." A strip of land, established to protect one type of land use from another with which it is incompatible, which is landscaped and kept in perpetual open space uses.

(10) "Building." Any structure designed or built for the support enclosure, shelter or protection of persons, animals, chattels, or property.

(11) "Building, height of." The vertical distance as measured from the finished grade at the front line of the building to the highest point of the structure.

(12) "Building line - front, side, rear." Lines which define the required area for the front, side and rear yards, as set forth in the zoning ordinance. This line is usually fixed parallel to the lot line and is equivalent to the required yard.

(13) "Building, main or principal." A building in which the primary use of the lot is conducted.

(14) "Business service." Establishment which provide aid or merchandise to retail trade establishments including: advertising firms; consumer and mercantile credit reporting and collection firms; duplicating, mailing and stenographic services; dwelling and building cleaning services; photo finishing; and trading stamp service. (See Code 63 in the Standard Land Use Coding Manual)

(15) "Clinic." An establishment housing facilities for medical or dental diagnosis and treatment exclusive of major surgical procedures for patients who are not kept overnight on the premises. (See Codes 6511, 6512 and 6517 in the Standard Land Use Coding Manual)

(16) "Commercial." Activities related to the provision of products and services. See retail and wholesale trade; financial, business, personal and professional services.

(17) "Commercial Mobile Communications Services (CMCS)." Common carriers authorized to offer and provide mobile and fixed wireless telecommunications services for hire to the public, including, without limitation, cellular radio telephone and similar services, paging, air to ground, personal communications systems (PCS), specialized mobile radio, enhanced specialized mobile radio services and other such telecommunications providers. These services shall include towers, equipment and other accessory uses needed to provide the hardware needs of CMCS.

(18) "Communication." See Code 47 in the Standard Land Use Coding Manual.

(19) "Community facilities." As mentioned in the mobile home section shall mean recreational facilities and laundromats to serve the development.

(20) "Condominium-residential." A multi-family or townhouse development where the individual units are owned separately with common ownership of the land surrounding the development.

(21) "Crematory." A building or structure or room or space within a building, which has been certified by the State of Tennessee for the cremation of deceased persons and is located within or as a part of a funeral home. The crematory shall be limited to one (1) deceased person at a time.

(22) "Cultural activity." Any institution concerned with the appreciation of nature and the humanities such as but not limited to museums, art galleries, historic sites and aquariums. (See Code 71 in the Standard Land Use Coding Manual)

(23) "Density." Number of units per acre allowed by this zoning ordinance.

(24) "District." Any section or sections of the City of Millington for which the regulations governing the use of land and use, density, bulk, height, and coverage of buildings and other structures are uniform.

(25) "Driveway." A paved or gravel way, on private property, providing access from a public way, street or alley, to the main buildings, carport, garage, parking space or other portion of the premises.

(26) "Dwelling." A building or portion thereof which is designed for or used for human residential habitation. For the purpose of the zoning ordinance, the term "dwelling" shall not include boarding or rooming houses, motels, hotels, or other structures designed for transient residence.

(27) "Dwelling-mobile home." See Mobile Home.

(28) "Dwelling, single-family · detached." A building designed for or occupied exclusively by one (1) family which has no connection by a common wall to another building or structure similarly designed.

(29) "Dwelling, two-family." A building designed to be occupied by two families, living independently of each other and having one wall common to both dwelling units.

(30) "Dwelling, multiple-family." A building or portion thereof, designed for occupancy by three (3) or more families living independently of each other. (Also see Condominiums, Residential and Dwelling, Townhouse)

(31) "Dwelling, townhouse." An attached residential dwelling unit for occupancy by one (1) family constructed in a row with each unit occupying at least (2) stories. Each dwelling unit is separated from the adjoining unit in each story by an adjoining fire resistant wall which has no openings in it and extends from the lowest floor through the roof with each dwelling unit having independent access to the exterior in the ground floor. (Also see Condominium, Residential)

(32) "Dwelling unit." One or more rooms designed as a unit for occupancy by one (1) family for cooking, living, and sleeping purposes, which is part of a two-family, or multi-family structures.

(33) "Easement." The right to use another person's property but only for a limited and specifically named purpose. The most common purposes are for utility installation, the protection or provision of drainage ditches or swales, and the provision of access. The owner generally continues to make use of such land since he has given up only certain, and not all, ownership rights.

(34) "Education services." Established schools including primary, secondary, universities, colleges, junior colleges and various private facilities such as correspondence schools and art, dance, and music schools. (See Code 68 in the Standard Land Use Coding Manual)

(35) "Essential services." The erection, construction, alteration, or maintenance by public utilities or municipal departments, or commissions, of underground or overhead gas, electrical, steam, or water transmission or distribution system, including poles, wire, mains, drains, sewers, pipes, conduits, cables, traffic signals, in connection therewith, but not including buildings or substations reasonably necessary for the furnishing of adequate services by such public utilities or municipal departments or commissions, or for the public health or safety or general welfare.

(36) "Exterior boundary." See Exterior Yard.

(37) "Exterior yard." A yard adjacent to the side or exterior boundaries of a mobile home park a multi-family or planned commercial development which are clear of any structures.

(38) "Family." One or more persons related by blood, marriage, or other legal arrangement, or a group of unrelated individuals, not to exceed two persons per bedroom of the house occupied, living as a single non-profit housekeeping unit.

(39) "Finance, insurance and real estate services." Those establishments which provide banking or bank related functions and insurance and real estate brokers. (See Code 61 in the Standard Land Use Coding Manual)

(40) "Flood." A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of rivers or streams or the unusual and rapid accumulation of runoff of surface waters from any source.

(41) "Floodway." The stream channel and the portion of the adjacent floodplain which must be reserved solely for the passage of floodwaters in order to prevent an increase in upstream flood heights of more than one (1) foot above predevelopment conditions.

(42) "Floodway fringe area." Lands lying outside a designated flood way but within the area subject to inundation by the 100-year flood.

(43) "Floodproofing." Any combination of structural or nonstructural additions, changes, or adjustments which reduces or eliminates flood damage to real estate, improved real property, water supply and sanitary sewer facilities, electrical systems, and structures and their contents.

(44) "Floodplain." A relatively flat or low area adjoining a river or stream which is periodically subject to partial or complete inundation by floodwaters, or a low area subject to the unusual and rapid accumulation of

runoff of surface waters from any source. For the purposes of the zoning ordinance, the land subject to inundation by the 100-year flood, i.e. the 100-year flood plain.

(45) "Funeral home." A funeral service establishment, including funeral merchandise, funeral services, funeral directing and a crematory.

(46) "Garage, private." A building or portion thereof for the storage of motor vehicles owned or used by the residents.

(47) "Governmental agency." An agency of the federal state, or the local government or any combination thereof.

(48) "Governmental services." See Code 67 of the Standard Land Use Coding Manual.

(49) "Grade." The ground elevation used for the purpose of regulating the height of buildings. The ground elevation used for this purpose shall be the average of the finished ground elevations at the front line of the building.

(50) "Gross floor area." The total floor area within the walls of structure.

(51) "Habitable space." Areas within the building designed and/or used as living quarters for human beings.

(52) "Hazardous substance." Any compound or use that can pose a substantial present or potential hazard to health or the environment when improperly treated, handled, stored, transported, disposed of or otherwise managed as defined by Tennessee Code Annotated, § 68-27-102, or listed as hazardous or toxic by the Tennessee Department of Health or the U.S. Environmental Protection Agency.

(53) "Health officer." The health officer of Shelby County.

(54) "Height." See Building, height of.

(55) "Incidental home occupation." A venture for profit which is incidentally conducted in a dwelling unit as an accessory to the residential use provided that: the venture is conducted in the principal building; all persons engaged in the venture are residents of the dwelling unit; no more than twenty (20) percent of the total ground floor area is used for the venture and no evidence of the venture is visible from any public way. Incidental home occupations shall include: arts and crafts; dressmaking and sewing; individual instruction of music or art; individual tutoring; professional services where clients are served one at a time and distributor type sales of merchandise such as Amway or Avon in which clients generally do not come to the residence.

(56) "Industry." See Manufacturing.

(57) "Institution." A building occupied or operated by a nonprofit society, corporation, individual foundation or governmental agency for the purpose of providing charitable, social, educational or similar services of a charitable character to the public.

(58) "Kindergartens." See Nursery School.

(59) "Landscaping." A planted and maintained area of trees, shrubs, lawns, and other ground cover to materials designed to present a aesthetic buffer between properties and adjoining uses or street areas.

(60) "Loading space." An off-street space on the same lot with a building or group of buildings for temporary parking of a vehicle while loading and unloading merchandise or materials.

(61) "Lot." A legally recorded parcel of land.

(62) "Lot area." The total horizontal area included within lot lines.

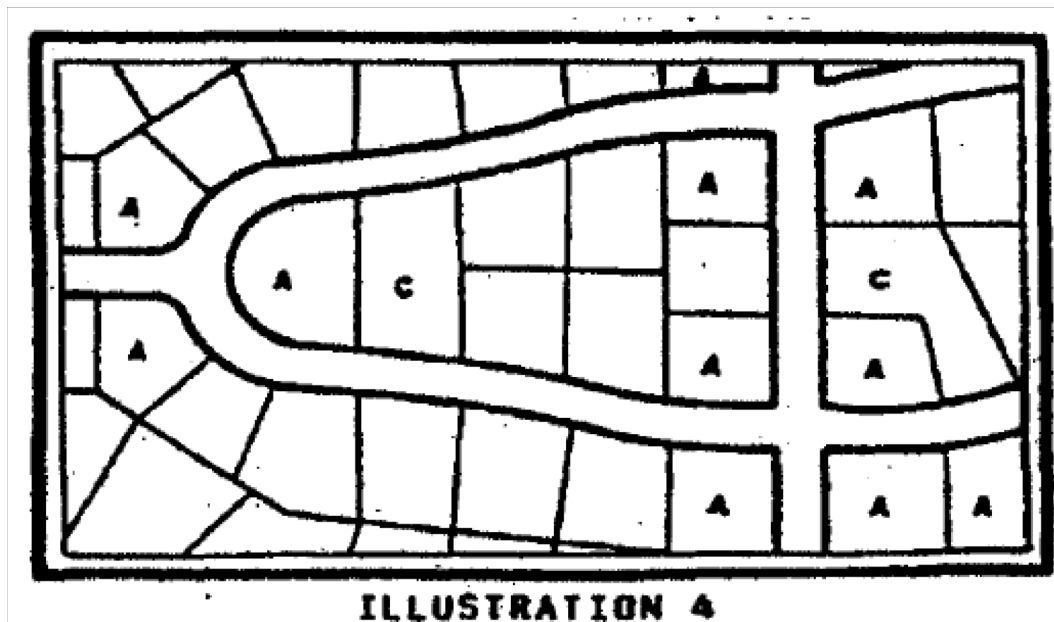
(63) "Lot, corner." A lot abutting upon two (2) or more streets, at their intersection. (See A in illustration 4)

(64) "Lot, double frontage." A lot having a frontage on two (2) non-intersecting streets as distinguished from a corner lot. (See C in illustration 4)

(65) "Lot of record." A parcel legally recorded in the Office of the Shelby County Register of Deeds prior to the date of the adoption of the zoning ordinance.

(66) "Lot coverage." The lot area covered by all buildings located therein.

(67) "Lot width." The horizontal measurement at the building line.



(68) "Lowest floor." Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the zoning ordinance.

(69) "Manufactured home." For the purpose of interpreting the term "Manufactured home" as used within the Flood Hazard District section



"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

(70) "Manufacturing." The production of a product at a fixed site. (See Code 21 through 39 in the Standard Land Use Coding Manual)

(71) "Medical services." Those establishments which provide aid or merchandise relating to or concerned with the practice of medicine; excluding sanitariums, convalescent and rest home services. (See Code 651 in the Standard Land Use Coding Manual)

(72) "Mobile home." A factory-assembled, movable dwelling unit designed and constructed to be towed on its own permanent chassis, comprised of frame and wheels, to be used with or without a permanent foundation for permanent occupancy but with the necessary service connections for required utilities, and distinguishable from other types of permanent dwellings in that the standards to which it is built include provisions for its mobility on that chassis as a vehicle.

The character of a mobile home as a non-permanent dwelling shall not be changed in the view of the zoning ordinance by removal of the wheels and/or carriage or placement on a permanent foundation. A travel trailer is not to be considered as a mobile home.

(73) "Mobile home park." Any plat of ground upon which two or more mobile homes are parked for occupancy as dwelling units.

(74) "Motor vehicle transportation." See Code 42 of the Standard Land Use Coding Manual.

(75) "Neighborhood shopping center." A group of commercial establishments, planned, developed, owned, and managed as a unit, with off-street parking provided on the property, and related in its location, size, and type of shops to the trade area which the unit serves, with a minimum of four shops at a site containing more than two (2) acres.

(76) "New construction." Means structures for which the "start of construction" commenced on or after March 2, 1981.

(77) "Non-conforming use." Any use of buildings or premises which lawfully existed prior to the adoption of, or amendment of the zoning ordinance, but which no longer comply with the use regulations of the district in which it is located.

(78) "Noxious matter." Material (in gaseous, liquid, solid particulate, or any other form) which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the social, economic, or psychological well-being of individuals (also see toxic materials).

(79) "Nursery." Refers to the various arrangements made by parents for the care outside their home of children under seventeen (17) years of age, for less than 24-hour periods as provided in Tennessee Code Annotated, §§ 14-10-101 through 14-10-105 as well as all pertinent rules, regulations, and standards of the Tennessee Department of Human Services.

(80) "Nursery school." A building or structure used for the care of children as defined herein. Such a facility normally includes one of the following types.

(a) "Family day care home." A home operated by any person who receives pay for providing less than 24-hour supervision and care, without transfer of custody, for 5, 6, or 7 children under 17 years of age, who are not residents of the household. A license is not required for a house providing care for fewer than 5 children.

(b) "Group day care home." Any place operated by a person, social agency, corporation, institution, or other group which receives 8 or more children under 17 years of age, for less than 24 hours per day, for care outside their home, without transfer of custody. A group day care home may care for no more than 12 children.

(c) "Day care center." A place operated by a person, social agency, corporation, institution, or other group that receives pay for the care of 13 or more children under 17 years of age for less than 24 hours per day, without transfer of custody.

(81) "One-hundred year flood." A flood which has, on the average a 1-percent chance of being equalled or exceeded in any given year. It is sometimes referred to as the "1-percent chance flood".

(82) "Pads." The surface on which trailer is located consisting of concrete footings and a support of the trailer.

(83) "Personal services." Services which include laundry, beauty, funeral, and other services to individuals. (See Code 62 in the Standard Land Use Coding Manual)

(84) "Professional services." Services carried out by professionals including legal and physician services. (See Code 65 in the Standard Land Use Coding Manual)

(85) "Public assembly facility." Any of the following types of institutions or installations where community activities are typically performed such as: parochial and private clubs, lodges, meetings halls, recreation centers and areas; temporary festivals, theaters; public, parochial and private museums and art galleries; places of worship, including any structure or site such as a church, synagogue, chapel, sanctuary or cathedral, used for collective or individual involvement with a religious activity, such as rites, rituals, ceremonies, prayer and discussion; public community centers and recreational areas such as playgrounds, playfields and parks.

(86) "Public uses." Facilities such as, but not limited to, parks, schools, and offices owned and operated by governmental bodies.

(87) "Public utility." Any plant or equipment for the conveyance of telephone messages or for the production, transmission, delivery of or furnish of heat, chilled air, chilled water, light, power or water, or sewage facilities, either directly or indirectly to or for the public. (See Codes 47 and 48 except Code 4823 and 485)

(88) "Recreation activities." See Code 74 of the Standard Land Use Coding Manual.

(89) "Recreational vehicle." A trailer towed behind a car or self propelled vehicle intended for use as a temporary recreational dwelling.

(90) "Repair services." Those establishments which fix, mend or overhaul merchandise for households or businesses, not to include automobile body shops. (See Code 64 in the Standard Land Use Coding Manual)

(91) "Retail trade." Those establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. (See Code 52 through 59 in the Standard Land Use Coding Manual)

(92) "Schools, parochial." An institution of learning owned and/or operated by a recognized church or religious institution.

(93) "Signs." Any device designed to inform, or attract the attention of persons which presents a name, symbol, logo or advertisement for services or products offered on or off-site as allowed under the regulations of the zoning ordinance. The term sign shall include the sign structure and all attachments, if attached to a structure or, if ground mounted, shall include all bases, poles, mounts or attachment from the ground level upward.

(94) "Sign-ground mounted." A sign mounted on the ground or a support independent of a building.

(95) "Sign, off premise, off site." Signs advertising products or services for sale on a site other than the site the sign is located.

(96) "Sign, on premises, on site." Signs advertising products or services for sale on the same site as the sign is located.

(97) "Site plan, sketch plan, general plan." A plan delineating the overall scheme of the development of a tract including all items as specified in the zoning ordinance.

(98) "Special exception." A use allowed on appeal to the board of zoning appeals.

(99) "Start of construction." For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.O. 97-341), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured

home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(100) "Story." That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building used for human occupancy, between the topmost floor and the roof. The basement not used for human occupancy shall not be counted as a story.

(101) "Half story." A story under a sloping roof, the finished floor area which does not exceed one half the floor area of the floor immediately below it, or a basement used for human occupancy, the floor area of the part of the basement thus used not to exceed fifty (50) percent of the floor area of the floor immediately above.

(102) "Street or road." A way for vehicular traffic, whether the road is designed as an avenue, arterial, collector, boulevard, road, highway, street, expressway, land, alley or other way, and for the purpose of these regulations "roads" are divided into the following categories.

(a) "Arterial street." A major street used primarily for heavy through traffic which will be so designated on the Millington Major Road Plan.

(b) "Collector street." A street designed to carry traffic from minor streets to the major road system including the principal entrance streets to a residential development and the streets for major circulation within such a development. Collector streets are usually designated as such on the Millington Major Road Plan.

(c) "Cul-de-sac or dead-end street." A local street with only one outlet for which there are no plans for extension and no need for extension.

(d) "Marginal access street." A minor street which is constructed parallel and adjacent to an arterial street for the purpose of providing access to abutting properties and protection from through traffic.

(e) "Minor residential or local streets." A neighborhood or commercial area street used primarily for access to the abutting properties.

(103) "Street line." The property line which bounds the rights-of-way set aside for use as a street. Where sidewalks exist and the location of the property line is questioned, the side of the sidewalk farthest from the traveled street shall be considered as the street line.

(104) "Street center lines." The center of the surface roadway or the surveyed center line of the street.

(105) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(106) "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

(b) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."

(107) "Temporary structure." A factory assembled, movable building not designed or used as a dwelling unit which is constructed to be towed on its own chassis comprised of a frame and wheels, to be used with or without a permanent foundation but with the necessary connections for utility services.

(108) "Total floor area." The area of all floors of a building including finished attics, finished basements, covered porches, and carports.

(109) "Tower." As used herein, "tower" means any structure or framework that exceeds the maximum height for structures permitted in the city's zoning district where said structure or framework is located, to be located, built or used in any way for the provision of mobile and/or fixed wireless telecommunications services for hire to the public. Said services shall include, but are not limited to, the services listed in the definition of Commercial Mobile Communications Services set out above.

(110) "Toxic materials." Material (gaseous, liquid, solid, particulate, or any other form) which is capable of causing injury to living organisms by chemical recreation even when present in relatively small amounts.

(111) "Transient lodging." Temporary lodging as set forth in Code 15 of the Standard Land Use Coding Manual.

(112) "Usable floor area." Measurement of usable floor area shall be the sum of gross horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls. Floor area which is used or intended to be used principally for the storage or processing of merchandise or for utilities shall be excluded from this computation.

(a) For the purposes of computing parking, usable floor area shall be that area used or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers.

(b) Where detailed floor plans are not available, the following shall apply:

(i) "Commercial building." Usable floor area shall equal 75% of the gross floor area.

(ii) "Office buildings other than medical office buildings." Usable floor area shall equal 80% of the gross floor area.

(iii) "Medical office building." Usable floor area shall equal 85% of the gross floor area.

(113) "Use." The special purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

(114) "Utilities." Gas, water, electricity, sewer and telephone services provided by government agencies or private companies (see code 48 in the Standard Land Use Coding Manual) except for solid waste disposal and sewage disposal.

(115) "Variance." A modification of the strict application of the area (lot, yard and open space) regulations and development standards of the zoning ordinance due to exceptionally irregular, narrow, shallow, or steep lots, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of reasonable use of the property. The salient points of a variance are:

(a) "Undue hardship" caused by exceptional physical irregularities of the property; and

(b) Unique circumstances due to the exceptional physical irregularities; and,

(c) Strict application of the area regulations and development standards which would deprive an owner of reasonable use of the property. A variance is not justified unless all three elements are present.

(116) "Veterinary hospital or clinic--large animals." Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases or injuries to all size animals. Such an establishment may include accessory boarding facilities provided they are located inside the building. Larger animals and livestock such as, but not limited to, horses, cows, sheep and pigs are permitted in this classification as well as small animals, including household pets.

(117) "Veterinary hospital or clinic--small animal." Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases or injuries to small animals, including household pets. Such an establishment may include accessory boarding facilities provided they are located inside the building. Larger animals and livestock such as, but not

limited to, horses, cows, sheep and pigs are not allowed in this classification.

(118) "Yards." Any open space on the same lot with a principal building open, unoccupied and unobstructed by building from the ground to the sky except as otherwise provided in the zoning ordinance. The measure of a yard shall be the minimum horizontal distance between any part of the principal building and lot or street right-of-way lines.

(a) "Front yard." The yard extending across the entire width of the lot between the front lot line, and the nearest part of the principal building. On corner lots, the yards adjacent to both streets shall be front yards. (See illustration 1)

(b) "Side yard." The yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side building line. (See Illustration 1)

(c) "Rear yard." A yard extending across the rear of a lot between the side lot lines and being the required minimum horizontal distance between the rear lot line and the rear building line. On all lots except corner lots, the rear yard shall be defined at the time the building permit is issued. (See Illustration 1)

(119) "Zoning districts." Any section of the city for which the zoning regulations, governing the use of buildings and premises, the height of buildings, the size of the yards and the intensity of use are uniform.

(120) "Church." A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose; including a synagogue, temple, mosque, or other such place of worship and religious activities.

(121) "Church with a day care center." A church as defined in this section that includes a day care center as defined in this section. This use must meet the following requirements:

(a) A fenced play area shall be provided and shall contain a minimum of fifty (50) square feet of usable play space for each child using the area at any one (1) time. This play area shall be at least twenty feet (20') from any residential property lines and fifty feet (50') from a street.

(b) A minimum of a four foot (4') fence shall be provided, and this area shall be screened by either vegetative or masonry from adjacent residential uses.

(c) The use shall be connected to a public sewage disposal system where possible, or if not available, the use of a private sewage disposal system shall have the approval of the local department of environment and conservation division of ground water protection and it shall be operating satisfactorily at all times.

(d) There shall be adequate drives for queuing space, parking and pick up areas for the drop off and pick up of children as determined by the Millington Planning Commission.

(e) The facility must meet the requirements of the Tennessee Department of Human Service and the Shelby County Health Department as well as City of Millington requirements.

(f) The day care center is to be operated by the church or a legal subsidiary of the church and may not be contracted out to an individual, group of individuals or a business.

(122) "Storefront church." A religious meeting place in a shopping center or other retail building. (1981 Code, § 11.501, as amended by Ord. #1997-17, Feb. 1998, modified, and amended by Ord. #2014-16, Nov. 2014, Ord. #2018-12, Aug. 2018 and Ord. #2020-5, April 2020 *Ch 16\_6-29-20*)

**14-502. Sexually oriented businesses; defined.** For purposes of the Millington Zoning Ordinance, the definitions relating to sexually oriented businesses shall be the same definitions as are adopted by this Ordinance 2005-20 and set out in § 9-1103 of the Millington Municipal Code or any successor section. These definitions are incorporated into the Millington Zoning Ordinance by reference as fully as if set out herein verbatim. (as added by Ord. #2005-20, Aug. 2005)



## CHAPTER 6

### RESIDENTIAL DISTRICT PROVISIONS

#### SECTION

- 14-601. R-0 Residential District (Lowest Density).
- 14-602. R-1 Residential District (Low Density).
- 14-603. R-2 Residential District (Medium Density).
- 14-604. R-3 Residential District (Two-family).
- 14-605. R-4 Residential District (High Density).
- 14-606. R-5 Residential Mobile Home Park District.
- 14-607. PRD-Planned Residential District.
- 14-608. R-LL Residential District (Large Lot).
- 14-609. Prohibition of towers for commercial mobile communications services.
- 14-610. A Agricultural District.

**14-601. R-0 Residential District (Lowest Density).** Within the areas designed R (Low Density) on the Zoning Map of the City of Millington, Tennessee, the following provisions shall apply:

(1) Chart one, permitted uses.

Permitted Uses	A	R-0	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-F	M-3	MT	OT	ER
<b>RESIDENTIAL AND AGRICULTURAL</b>																					
Forestry and Agricultural activities, including stockyards and live	P																				
Single family dwellings	P	P	P	P	P	P	P	P													
Two-family dwellings																					
Condominium dwellings																					
Mobile homes																					
Single family mobile homes and mobile home park offices																					
Recreational vehicles, mobile home and services																					
Public Uses, Parks and Public Buildings	P	P	P	P	P	P	P	P													
Offices and professional services produced on the premises	P																				
Public Bulletin board or Temporary Signs	P																				
Signs	P																				
Customer home occupations	P	P	P	P	P	P	P	P													
Accessory Buildings	P	P	P	P	P	P	P	P													
Public and Private Schools	A	A	A	A	A	A	A	A													
Business and Professional Schools	A	A	A	A	A	A	A	A													
Business and professional offices related to a Business or Professional School	A																				
Commerces	A																				
Private Clubs excluding Firearms Clubs	A																				
Private Clubs excluding Firearm or clubs, large animals, or the keeping of small animals	A																				
Grain elevators or similar storage	A																				
Hospitals and institutions of an educational, religious, charitable or philanthropic nature	A																				
Church with a Day Care Center	A	A	A	A	A	A	A	A													
Golf Courses or Country Clubs	A	A	A	A	A	A	A	A													
Day care centers																					
Nursing Homes																					
Nursing Homes																					
<b>NON RESIDENTIAL USES</b>																					
Personal Services including Barber Services																					

Chart 1 Page 1  
2/2/2020

P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted or appeal by FCC as a Special Exception and requires a site plan approval

CHART ONE, PERMITTED USES

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT	OT	ER	
Dry cleaning pickup and delivery services											S	S	S								S	
Beauty and Barber services											S	S	S								S	
Shoe repair											S	S	S								S	
Apparel repair and alterations											S	S	S								S	
Bank											S	S	S								S	
Kindergartens and child care homes											S	S	S								S	
<b>Retail trade, including:</b>																						
Building materials, hardware and farm equipment												S										S
General merchandise												S										S
Food and groceries												S										S
Automotive, marine craft, aircraft and accessories, excluding auto junk yards												S	S									S
Automotive, marine craft, aircraft and accessories, limited to tires, batteries and accessories, and Gasoline service stations												S	S									S
Apparel and accessories												S	S									S
Furniture, home furnishings and equipment												S	S									S
Eating and drinking											S	S	S									S
<b>Storefront Church</b>											S	S	S									S
Other retail trade												S										S
Other retail trade limited to Drug and proprietary, book and stationary													S									S
<b>Services, including:</b>																						
Offices											S	S	S									S
Finance, insurance and real estate											S	S	S									S
Personal services											S	S	S									S
Business services											S	S	S									S
Businesses services limited to: Dwelling and other building services; Research development and testing; Equipment renting and leasing; Automotive and truck renting; and Electronic configuration and/or services																						S
Funeral Home												S										S
Personal storage, limited												S										S
Repair services excluding tire recapping services												S										S
Automobile repair and wash services												S	S									S
Electrical and electronic devices												S	S									S
Professional services											S	S	S									S

P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by BZA as a Special Exception and requires a Site Plan approval

CHART ONE, PERMITTED USES

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT	OT	ER	
Professional services limited to: medical laboratories, dental laboratory and other medical and health services															S	S	S					
Contract construction services											S	S		S	S	S	S				S	
Contract construction services office											S	S		S	S	S	S				S	
Educational services											S	S		S	S	S	S				S	
Veterinary Hospital or Clinic, Small Animal											S	S	S	S	S	S	S				S	
Miscellaneous services											S	S		S	S	S	S				S	
Mini Storage											A	A				P		S			A	
Amusements											S	S									S	
Recreational activities											S	S									S	
Transient Lodging: Motels, Hotels and Tourist Courts											S	S			S	S	S				S	
Public Assembly											S	S									S	
Taxicab business, storage and garage											S	S			S	S	S				S	
Sexually oriented businesses											S	S				S					S	
Cultural Entertainments and Recreation																						
Motion picture theatres											S	S										S
Recreational activities limited to sports, recreational centers, gymnasiums and athletic clubs											S	S										
Manufacturing, including Apparel and other products made from fabrics, leather and similar products, excludes leather tanning and finishing															S	S	S	S				
Food, beverage and kindred products															S	S	S	S				
Furniture and fixtures															S	S	S	S				
Printing, publishing and allied industries															S	S	S	S				
Paper and allied products, limited to paperboard containers and boxes															S	S	S	S				
Drug manufacturing															S	S	S	S				
Fabricated metal products, excluding stamping															S	S	S	S				
Fabricated metal products																S	S	S				
Textile mill products															S	S	S	S				
Rubber and miscellaneous plastic products															S	S	S	S				
Professional, scientific and controlling instruments; electronic configuration and repair; Photographic and optical goods; and watches and clocks manufacturing															S	S	S	S				
Lumber and wood products																S	S	S				

P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by BZA as a Special Exception and requires a Site Plan approval

CHART ONE, PERMITTED USES

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT	OT	ER
Chemical and allied products limited to Drugs, soap, detergents and cleaning preparations																S	S	S			
Chemical and allied products																					
Stone, Clay and glass products																					
Petroleum refining and related industries																					
Primary metal limited to rolling, drawing and extruding of ferrous and non-ferrous metals																					
Transportation Communication and Utilities																					
Airport and Aviation Related Uses																					
Communication															S	S	S				
Communication towers	A										A				A	A	A			A	
Utilities																S	S				P
Motor vehicle transportation													A		S	S	S				
Other communication															S	S	S				
Wholesale trade limited to:																					
Motor vehicles and automotive equipment, excluding auto salvage and junkyards															S	S	S	S			
Drugs, drug proprietaries and druggists supplies															S	S	S	S			
Drugs, chemicals and allied products																S	S	S			
Dry goods and apparel															S	S	S	S			
Farm products excluding live animals															S	S	S	S			
Groceries, beverages and related products															S	S	S	S			
Electrical and electronic goods															S	S	S	S			
Hardware, plumbing, heating equipment and supplies															S	S	S	S			
Machinery, equipment and supplies																S	S	S			
Metals and minerals, excluding petroleum products																S	S	S			
Office, paper and paper products																S	S	S			
Lumber and construction materials																S	S	S			
Other Wholesale not listed, excluding: Metals, plastic and minerals; Petroleum bulk stations and terminals; Scrap and waste metals; and Livestock or live animals															S	S	S	S			
Other Wholesale trade limited to petroleum bulk stations and terminals and wholesale scrap and waste materials																		S			
Warehousing and Storage services excluding stockyards																S	S	S			
<b>OTHER</b>																					
Signs as permitted in Section 14-202	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
United States Government uses at the sole discretion and pleasure of the military authority in charge																					P
Planned Residential District			S	S	S	S	S														
Mixed Use Planned Developments			S	S	S	S	S														S
Fireworks Sales Overlay District												S	S								
Water Park. See Chapter 25																					S

P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by BZA as a Special Exception and requires a Site Plan approval

(2) Chart two, district and use bulk regulations.

Chart 2 - District and Use Bulk Regulations Revised 7/3/15	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Requirements		
	Lot Area (Square feet)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)	Height (Feet)	Units per Acre	(%) Lot Coverage
<b>A Agricultural District</b>								
Single Family Detached Dwelling	20,000 *	100	40	15	25 **	35	2.18	0
Agriculture	One acre	100	40	25	25 **	45	n/a	0
Other	One acre	100	40	25	25 **	45	n/a	0
<b>R-O Residential District</b>								
Single Family Detached Dwelling	15,400	110	35	10	30	35	2.83	30
Public Uses	20,000	110	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25
Churches	3 acres	200	40	20	40	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	40	20	40	35	n/a	25
<b>R-1 Residential District</b>								
Single Family Detached Dwelling	6,500	80	30	10	30	35	6.7	30
Public Uses	20,000	100	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25
Churches	3 acres	200	40	20	40	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	40	20	40	35	n/a	25
<b>R-2 Residential District</b>								
Single Family Detached Dwelling	6,500	65	25	8	25	35	6.7	30
Public Uses	20,000	100	35	35	35	35	n/a	25
Schools, public private and parochial	5 acres ***	300	35	35	35	35	n/a	25
Churches	3 acres	200	35	35	35	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	35	35	35	35	n/a	25
<b>R-3 Residential District</b>								
Single Family Detached Dwelling	6,500	65	25	8	25	35	6.7	30
Two family dwellings	10,000	80	25	10	25	35	4.36	30
Public Uses	20,000	100	<del>45</del> 35	15	35	35	n/a	25
Schools, public private and parochial	5 acres ***	300	<del>45</del> 35	15	35	35	n/a	25
Churches	2 acres	200	<del>45</del> 35	15	35	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	<del>45</del> 35	15	35	35	n/a	25
Day Care Centers			<del>45</del> 35	15	35	35	n/a	25
Assisted Living Facilities			<del>45</del> 35	15	35	35	n/a	25
Nursing Homes			<del>45</del> 35	15	35	35	n/a	25
<b>R-4 Residential District</b>								
Single Family Detached Dwelling	6,500	65	25	8	25	35	6.7	30
Two family dwellings	10,000	80	25	10	25	35	4.36	30
Townhouse dwellings	11,500 #	100	25	10/15 ###	25	35	12.82	25
Multi-family dwellings	11,500 #	100 ##	25	10/15 ###	35	35	12.82	25
Public Uses	20,000	100	35	15	35	35	n/a	25
Schools, public private and parochial	5 acres ***	300	35	15	35	35	n/a	25
Churches	2 acres	200	35	15	35	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	35	15	35	35	n/a	25
Day Care Centers			35	15	35	35	n/a	25
Assisted Living Facilities			35	15	35	35	n/a	25
Nursing Homes			35	15	35	35	n/a	25
<b>R-5 Residential Mobile Home Park</b>								
Entire development	8 acres		50	30	30	35	n/a	
Single family mobile homes and recreational vehicles	4,500 per unit		25	10	15	35	n/a	n/a
Office			50	30	30	35	n/a	n/a
<b>R-LL Residential District</b>								
Single Family Detached Dwelling	2 acres	175	35	15	30	35	0.5	30
Public Uses	2 acres	175	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25
Churches	3 acres	200	40	20	40	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	40	20	40	35	n/a	25
<b>B-1 Neighborhood Commercial</b>								
Permitted commercial and office uses	0	0	30	10/20 ^	30	35	n/a	25
Public uses	20,000	100	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25

Chart 2 Page 1

Chart 2 - District and Use Bulk Regulations Revised 7/3/15	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Requirements		
	Lot Area (Square feet)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)	Height (Feet)	Units per Acre	(%) Lot Coverage
Churches	2 acres	200	40	20	40	35	n/a	25
B-2 General Commercial	0	0	50	10/0 <sup>^^</sup>	20/25 <sup>^^^</sup>	35		45
P-C Planned Commercial								
Entire Development	5 acres	100'	n/a	n/a	n/a	n/a	n/a	n/a
Individual permitted uses	0	0	50	25	25	35	n/a	0
O Office	0	0	50	10/0 <sup>+</sup>	20/25 <sup>^^^</sup>	35		0
M-1 Light Industrial	0	0	40	20/40 <sup>++</sup>	20/40 <sup>^^</sup>	50	n/a	50
M-2 General Industrial	0	0	50	25/40 <sup>+++</sup>	25/40 <sup>+++</sup>	50	n/a	65
M-P Planned Industrial	0	0	50	25/40 <sup>+++</sup>	25/40 <sup>+++</sup>	50	N/A	65
M-3 Restricted Industrial	0	0	50	50/100	50/100	50	n/a	35
M-T Military Zone	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Veterans Parkway Corridor Overlay								
R-4 Residential (townhouse only)	11,500 #	100	0	10/15 <sup>###</sup>	25		12.82	25
B-1 Neighborhood Commercial	0	0	0	10/20 <sup>^</sup>	30	35	n/a	25
B-2 General Commercial	0	0	10	10/0 <sup>^^</sup>	20/25 <sup>^^^</sup>	35		45
P-C Planned Commercial (individual permitted uses)	0	0	10	25	25	35	n/a	0
O Office	0	0	10	10/0 <sup>+</sup>	20/25 <sup>^^^</sup>	35		0
M-1 Light Industrial	0	0	20	20/40 <sup>++</sup>	20/40 <sup>^^</sup>	50	n/a	50
M-P Planned Industrial	0	0	30	25/40 <sup>+++</sup>	25/40 <sup>+++</sup>	50	n/a	65

- \* Where no public sewer is provided the lot size shall be increased to meet Health Department regulations.
- \*\* Not less than 30' or 20% of the lot depth, whichever is smaller, provided in no case shall it be less than 25'.
- \*\*\* 5 acres plus one acre for each one-hundred or fraction of one-hundred students over one-hundred.
- # 11,500 square feet (sq. ft.) for the first unit, plus 2,500 sq. ft. for each additional unit.
- ## 100' for the development and each townhouse lot shall have 20' for frontage.
- ### 10' on end or internal units and 15 where it borders an adjacent property.
- ^^ 10' where it is adjacent to commercial and 20' where it is adjacent to residential.
- ^^^ 10', provided the Planning Commission may allow a 0' side yard in the case of common wall buildings. Where these uses are adjacent to residential the side yard shall be the greater of 10' or the side yard in the adjacent residential zoning.
- ^^^ The rear yard is 20' adjacent to commercial and 25' adjacent to residential.
- + 10', provided the Planning Commission may allow a 0' side yard in the case of common wall buildings. Where the use is adjacent to residential, the side yard shall be the same as the adjacent residential zoning plus 15'.
- ++ 20' where it is adjacent to commercial non-residential and 40' where it is adjacent to residential.
- +++ 25' where it is adjacent to commercial non-residential and 40' where it is adjacent to residential.

(3) Maximum height. (a) No structure shall exceed three (3) stories or thirty-five (35) feet in height. This limitation shall not apply to belfries, chimneys, church spires, flagpoles, radio and televisions antennas, and water tanks or stand pipes provided they comply with the provisions of all pertinent codes and ordinances and provided they are located a distance equal to their height plus ten (10) feet from the nearest line.

(b) All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.

(c) No accessory building shall exceed twenty (20) feet in height.

(4) Accessory buildings. Accessory buildings shall conform to the following standards:

(a) No accessory building shall be utilized for human occupation.

(b) No accessory building shall extend beyond the required front yard or the front line of the principal building.

(c) No accessory building shall extend into the required side yard.

(d) Accessory buildings may extend into the rear yard and shall be located a distance from the rear property line equal to the height of the structure.

(e) Accessory buildings shall not cover more than thirty (30) percent of the required yard. (1981 Code, § 11.601, as amended by Ord. #2015-14, Sept. 2015, Ord. #2018-12, Aug. 2018, and Ord. #2020-5, April 2020 *Ch16\_6-29-20*)

**14-602. R-1 Residential District (Low Density).** Within the areas designed R-1 (Low Density) on the Zoning Map of the City of Millington, Tennessee, the following provisions shall apply:

(1) Uses permitted. (a) Single-family dwellings.

(b) Accessory buildings customarily incidental to the permitted use.

(c) Signs as permitted in § 14-1202.

(2) Special exceptions. The following uses are permitted on approval by the board of zoning appeals upon review of the criteria established herein:

(a) Uses permitted. (i) Public uses, including but not limited to municipal, state or federal uses such as schools, museums, office buildings, utilities.

(ii) Churches.

(iii) Private or parochial schools.

(iv) Golf courses or country clubs.

(v) Accessory buildings customarily incidental to the permitted use.

(b) Criteria for review. (i) The use requested is to be located on a route designated as either an arterial or collector street on the official Major Road Plan for Millington.

(ii) All area, yard, density and parking requirements shall be met.

(iii) All site plan requirements, as set forth in § 14-1201 shall be submitted. If approved, all modifications requested by the board of zoning appeals shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the City of Millington.

(iv) The board of zoning appeals shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the requested use. These may include but shall not be limited to setbacks, screening, lighting, parking, location and layout, access and general landscaping requirements. This power of review shall not include the authority to specify or alter the architectural style of proposed or existing building, the authority to specify building materials, colors, or similar considerations.

(3) Uses prohibited. Any use not specifically permitted or permitted as a special exception by the board of zoning appeals shall be prohibited.

(4) Minimum lot area.

- |     |   |  |
|-----|---|--|
| (a) | Single-family dwellings                         | 6,500 sq. ft.  |
| (b) | Public uses:                                    | 20,000 sq. ft. except as set forth below:  |
| (i) | Schools, including parochial or private schools | Five (5) acres plus one (1) acre for each one hundred (100), or fraction of one hundred (100) students |

over one hundred.

- |     |   |                 |
|-----|---|-----------------|
| (c) | Churches  | Three (3) acres |
| (d) | Golf courses and/or country clubs, including publicly owned | 10 acres        |

(5) Minimum lot width measured at the building line.

- |     |  |   |
|-----|--|---|
| (a) | Single-family dwelling                           | Eighty (80) feet                                  |
| (b) | Public uses:                                     | One hundred (100) feet except as set forth below: |
| (i) | Schools, including parochial and private schools | Three hundred (300) feet                          |
| (c) | Churches   | Two hundred (200) feet                            |



- (d) Golf courses and/or country clubs, including publicly owned Two hundred (200) feet
- (6) Minimum depth of front yard.  
 (a) Single family dwelling Thirty (30) feet  
 (b) All other uses Forty (40) feet or greater if required by the board of zoning appeals
- (7) Minimum width of side yards.  
 (a) Single-family dwellings Ten (10) feet  
 (b) All other uses Twenty (20) feet or greater if required by the board of zoning appeals
- (8) Minimum depth of rear yard.  
 (a) Single-family dwelling Thirty 30 feet  
 (b) All other uses Forty (40) feet or greater if required by the board of zoning appeals
- (9) Maximum lot coverage by all buildings.  
 (a) Single-family dwellings Thirty (30) percent  
 (b) All other uses Twenty-five (25) percent
- (10) Maximum number of principal buildings.  
 (a) Dwellings One (1) principal building  
 (b) All other uses None providing the provisions of §§ 14-601(4) through 14-601(9) are met.
- (11) Maximum height. (a) No structure shall exceed three (3) stories or thirty-five (35) feet in height. This limitation shall not apply to belfries, chimneys, church spires, flagpoles, radio and television antennas, and water tanks or stand pipes provided they comply with the provisions of all pertinent codes and ordinances and provided they are located a distance equal to their height plus ten (10) feet from the nearest line.  
 (b) All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.  
 (c) No accessory building shall exceed twenty (20) feet in height.
- (12) Accessory building. Accessory buildings shall conform to the following standards:  
 (a) No accessory building shall be utilized for human occupation.  
 (b) No accessory building shall extend beyond the required front yard or the front line of the principal building.  
 (c) No accessory building shall extend into the required side yard.

(d) Accessory buildings may extend into the rear yard and shall be located a distance from the rear property line equal to the height of the structure.

(e) Accessory buildings shall not cover more than thirty (30) percent of the required rear yard. (1981 Code, § 11.602)

**14-603. R-2 Residential District (Medium Density).** Within the areas designated R-2 (Medium Density) in the Zoning Map of the City of Millington, Tennessee, the following provisions shall apply:

(1) Uses permitted. (a) Single-family dwellings.

(b) Accessory buildings customarily incidental to the permitted use.

(c) Signs as permitted in § 14-1202.

(d) Home occupations.

(2) Special exceptions. The following uses are permitted on approval by the board of zoning appeals upon review of the criteria established herein:

(a) Uses permitted. (i) Public uses, including but not limited to municipal, state or federal uses such as schools, museums, office buildings, utilities.

(ii) Churches.

(iii) Private or parochial schools.

(iv) Golf courses or country clubs.

(v) Accessory buildings customarily incidental to the permitted use.

(b) Criteria for review. (i) The use requested is to be located on a route designated as either an arterial or collector street on the Official Major Road Plan for Millington.

(ii) All area, yard, density and parking requirements shall be met.

(iii) All site plan requirements, as set forth in § 14-1201 shall be submitted prior to consideration by the board. If approved, all modifications requested by the board of zoning appeals shall be made prior to the issuance of any permit. The site plan shall be maintained in the permanent files of the City of Millington.

(iv) The board of zoning appeals shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the requested use. These may include but shall not be limited to setbacks, screening, lighting, parking, location and layout, access and general landscaping requirements. This power of review shall not include the authority to specify or alter the architectural style of proposed or existing buildings, or the authority to specify building materials, colors or similar considerations.

(3) Uses prohibited. Any use not specifically permitted or permitted as a special exception by the board of zoning appeals shall be prohibited.

(4) Minimum lot area.

- |     |   |   |
|-----|---|---|
| (a) | Single-family dwellings                                     | 6,500 sq. ft.   |
| (b) | Public uses   | 20,000 sq. ft. except as set forth below:   |
|     | (i) Schools, including parochial or private schools         | Five (5) acres plus one (1) acre for each one hundred (100), or fraction of one hundred (100) students over one hundred |
| (d) | Churches  | Three (3) acres   |
| (e) | Golf courses and/or country clubs, including publicly owned | Ten (10) acres  |

(5) Minimum lot width measured at the building line.

- |     |   |   |
|-----|---|---|
| (a) | Single-family dwellings                                     | Sixty-five (65) feet                              |
| (b) | Public uses:  | One hundred (100) feet except as set forth below: |
|     | (i) Schools including (parochial and private schools)       | Three hundred (300) feet                          |
| (c) | Churches  | Two hundred (200) feet                            |
| (d) | Golf courses and/or country clubs, including publicly owned | Two hundred (200) feet                            |

(6) Minimum depth of front yard.

- |     |                         |   |
|-----|-------------------------|---|
| (a) | Single-family dwellings | Twenty-five (25) feet   |
| (b) | All other uses          | Thirty-five (35) feet or greater if required by the board of zoning appeals |

(7) Minimum width of side yards.

- |     |                         |   |
|-----|-------------------------|---|
| (a) | Single-family dwellings | Eight (8) feet  |
| (b) | All other uses          | Thirty-five (35) feet or greater if required by the board of zoning appeals |

(8) Minimum depth of rear yard.

- |     |                         |   |
|-----|-------------------------|---|
| (a) | Single-family dwellings | Twenty-five (25) feet   |
| (b) | All other uses          | Thirty-five (35) feet or greater if required by the board of zoning appeals |

(9) Maximum lot coverage by all buildings.

- |     |                         |                          |
|-----|-------------------------|--------------------------|
| (a) | Single-family dwellings | Thirty (30) percent      |
| (b) | All other uses          | Twenty-five (25) percent |

(10) Maximum number of principal buildings.

- (a) Single-family dwellings One (1) principal building
- (b) All other uses None providing the provisions of §§ 14-602(4) through 14-602(9) are met

(11) Maximum height. (a) No structure shall exceed three stories or thirty-five (35) feet in height. This limitation shall not apply to belfries, chimneys, church spires, flagpoles, radio and television antennas, and water tanks or stand pipes provided they comply with the provisions of all pertinent codes and ordinances and provided that they are located a distance equal to their height plus ten (10) feet from the nearest property line.

(b) All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.

(c) No accessory building shall exceed twenty (20) feet in height.

(12) Accessory buildings. Accessory buildings shall conform to the following standards:

(a) No accessory building shall be utilized for human occupation.

(b) No accessory building shall extend beyond the required front yard or the front line of the principal building.

(c) No accessory building shall extend into the required side yard.

(d) Accessory buildings may extend into the rear yard but shall be located a distance from the rear property line equal to the height of the structure.

(e) Accessory buildings shall not cover more than thirty (30) percent of the required rear yard. (1981 Code, § 11.603)

**14-604. R-3 Residential District (two-family).** Within the areas designated R-3 (two-family) on the Zoning Map of the City of Millington, Tennessee, the following provisions shall apply.

(1) Uses permitted. (a) Single-family dwellings.

(b) Two-family dwellings.

(c) Accessory buildings customarily incidental to the permitted use.

(d) Home occupations.

(e) Signs as permitted in § 14-1202.

(2) Special exceptions. The following uses are permitted an approval by the board of zoning appeals upon review of the criteria established herein.

(a) Uses permitted. (i) Public uses, including but not limited to municipal, state or federal uses such as schools, museums, office buildings, utilities.

- (ii) Churches.
- (iii) Private or parochial schools.
- (iv) Golf courses or country clubs.
- (v) Accessory buildings customarily incidental to the permitted use.
- (vi) Day care centers.
- (vii) Assisted living facilities.
- (viii) Nursing homes.

(b) Criteria for review. (i) The use requested is to be located on a route designated as either an arterial or collector street on the Official Major Road Plan for Millington.

(ii) All area, yard, density and parking requirements shall be met.

(iii) All site plan requirements, as set forth in § 14-1201 shall be submitted prior to consideration by the board. If approved, all modifications requested by the board of zoning appeals shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the City of Millington.

(iv) The board of zoning appeals shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the requested use. This may include but not be limited to setbacks screening, lighting, parking location and layout, access and general landscaping requirements. This power of review shall not include the authority to specify or alter the architectural style of proposed or existing building materials, colors or similar considerations.

(3) Uses prohibited. Any use not specifically permitted or permitted as special exception by the board of zoning appeals shall be prohibited.

(4) Minimum lot area.

- (a) Single-family dwelling 6,500 sq. ft.
- (b) Two-family dwellings 10,000 sq. ft.
- (c) Public uses: 20,000 sq. ft. except as set forth below:

- (i) Schools, including parochial or private schools Five (5) acres plus one (1) acre for each one hundred (100), or fraction of one hundred (100) students over one hundred

- (d) Churches Two (2) acres
- (e) Golf courses and/or country clubs, including publicly owned Ten (10) acres

(5) Minimum lot width measured at the building line.

- |      |   |   |
|------|---|---|
| (a)  | Single-family dwellings   | Sixty-five (65) feet  |
| (b)  | Two-family dwellings  | Eighty (80) feet  |
| (c)  | Public uses:  | One hundred (100) feet<br>except as set forth below:                              |
|      | (i) Schools, including<br>parochial and private<br>schools  | Three hundred (300) feet  |
| (d)  | Churches  | Two hundred (200) feet  |
| (e)  | Golf Courses and/or country<br>clubs, including publicly owned  | Two hundred (200) feet  |
| (6)  | <u>Minimum depth of front yard.</u>   |   |
| (a)  | Single-family dwellings   | Twenty-five (25) feet   |
| (b)  | Two-family dwellings  | Twenty-five (25) feet or<br>greater if required by the<br>board of zoning appeals |
| (c)  | All other uses  | Fifteen (15) feet or greater<br>if required by the board of<br>zoning appeals     |
| (7)  | <u>Minimum width of side yards.</u>   |   |
| (a)  | Single-family dwellings   | Eight (8) feet  |
| (b)  | Two-family dwellings  | Ten (10) feet   |
| (c)  | All other uses  | Fifteen (15) feet or greater<br>if required by the board of<br>zoning appeals     |
| (8)  | <u>Minimum depth of rear yard.</u>  |   |
| (a)  | Single-family dwellings   | Twenty-five (25) feet   |
| (b)  | Two-family dwellings  | Twenty-five (25) Feet   |
| (c)  | All other uses  | Thirty-five (35) feet or<br>greater if required by the<br>board of zoning appeals |
| (9)  | <u>Maximum lot coverage by all buildings.</u>   |   |
| (a)  | Single-family dwellings   | Thirty (30) percent   |
| (b)  | Two-family dwellings  | Thirty (30) percent   |
| (c)  | All other uses  | Twenty-five (25) percent  |
| (10) | <u>Maximum number of principal buildings.</u>   |   |
| (a)  | Single-family dwellings   | One (1) principal building  |
| (b)  | Two-family dwellings  | One (1) principal building  |
| (c)  | All other uses  | None providing the<br>provision of §§ 14-603(4)<br>through 14-603(9) are met.     |
| (11) | <u>Maximum height.</u> (a) No structure shall exceed three stories or thirty-five (35) feet in height. This limitation shall not apply to belfries, chimneys, church spires, flagpoles, radio and television antennas, and water tanks or stand pipes provided they comply with provisions of all |   |

pertinent codes and ordinances and provided that they are located a distance equal to their height plus ten (10) feet from the nearest property line.

(b) All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.

(c) No accessory building shall exceed twenty (20) feet in height.

(12) Accessory buildings. Accessory buildings shall conform to the following standards:

(a) No accessory building shall be utilized for human occupation.

(b) No accessory building shall extend beyond the required front yard or the front line of the principal building.

(c) No accessory building shall extend into the required side yard.

(d) Accessory buildings may extend into the rear yard but shall be located a distance from the rear property line equal to the height of the structure.

(e) Accessory buildings shall not cover more than thirty (30) percent of the required rear yard. (1981 Code, § 11.604, as amended by Ord. #1999-8, Aug. 1999)

**14-605. R-4 Residential District (High Density).** Within the areas designated R-4 (High Density) on the Zoning Map of the City of Millington, Tennessee the following provisions shall apply.

(1) Uses permitted. (a) Single-family dwellings.

(b) Two-family dwellings.

(c) Townhouse dwellings.\*

(d) Multi-family dwellings.\*

(e) Accessory buildings customarily incidental to the permitted use.

(f) Signs as permitted in § 14-1202.

\* Subject to site plan approval by the planning commission as set forth in § 14-1201.

(2) Special exceptions. The following uses are permitted on approval by the board of zoning appeals upon review of the criteria established herein.

(a) Uses permitted. (i) Public uses, including but not limited to municipal, state or federal uses such as schools, museums, office buildings, utilities.

(ii) Churches.

(iii) Private or parochial schools.

(iv) Golf courses or country clubs.

(v) Accessory buildings customarily incidental to the permitted use.

- (vi) Day care centers.
- (vii) Assisted living facilities.
- (viii) Nursing homes.
- (b) Criteria for review. (i) The use requested is to be located on route designated as either an arterial or collector street on the Official Major Road Plan for Millington.
  - (ii) All area, yard, density and parking requirements shall be met.
  - (iii) All site plan requirements, as set forth in § 14-1201 shall be submitted. If approved, all modifications requested by the board of zoning appeals shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the City of Millington.
  - (iv) The board of zoning appeals shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the requested use. These may include but shall not be limited to setbacks, screening, lighting, parking location and layout, access and general landscaping requirements. This power of review shall not include the authority to specify or alter the architectural style of proposed or existing building materials, colors or similar considerations.
- (3) Uses prohibited. Any use not specifically permitted or permitted as a special exception by the board of zoning appeals shall be prohibited.
- (4) Minimum lot area.
  - (a) Single-family 6,500 sq. ft.
  - (b) Two-family dwellings 10,000 sq. ft.
  - (c) Townhouse dwellings 11,500 sq. ft. for the first unit plus 2,500 sq. ft. for each additional unit shall be required for the overall development.
  - (d) Multi-family dwellings 11,500 sq. ft. plus for first unit plus 2,500 sq. ft. for each additional unit shall be required for the overall development.
  - (e) Public uses: 20,000 sq. ft. except as set forth below:
    - (i) Schools, including parochial and private schools Five (5) acres plus one (1) acre for each one hundred (100), or fraction of one hundred (100) students over one hundred
  - (f) Churches Three (3) acres



- (g) Golf courses and/or country clubs, including publicly owned Ten (10) acres
- (5) Minimum lot width measured at the building line.
- (a) Single-family dwellings Sixty-five (65) feet
- (b) Two-family dwellings Eighty (80) feet
- (c) Townhouse dwellings One hundred (100) feet lot width shall be required for the development, however, individual townhouse lots shall have 20 feet per unit plus required yards
- (d) Multi-family dwellings One hundred (100) feet
- (e) Public uses: One hundred (100) feet except as set forth below:
- (i) Schools, including parochial and private schools Two hundred (200) feet
- (f) Churches Two hundred (200) feet
- (g) Golf course and/or country clubs including publicly owned Two hundred (200) feet
- (6) Minimum depth of front yard.
- (a) Single-family dwellings Twenty-five (25) feet
- (b) Two-family dwellings Twenty-five (25) feet
- (c) Townhouse dwellings Twenty-five (25) feet
- (d) Multi-family dwellings Twenty-five (25) feet
- (e) All other uses Thirty-five (35) feet or greater if required by the board of zoning appeals
- (7) Minimum width of side yards.
- (a) Single-family dwelling Eight (8) feet
- (b) Two-family dwellings Ten (10) feet
- (c) Townhouse dwellings Ten (10) feet on end units, or any unit built without adjoining or common walls, Fifteen (15) feet on exterior boundaries
- (d) Multi-family dwellings Ten (10) feet on interior structures, fifteen (15) feet on exterior boundaries
- (e) All other uses Fifteen (15) feet or greater if required by the board of zoning appeals.
- (8) Minimum depth of rear yard.
- (a) Single-family dwellings Twenty-five (25) feet
- (b) Two-family dwellings Twenty-five (25) feet

- |     |                        |   |
|-----|------------------------|---|
| (c) | Townhouse dwellings    | Twenty-five (25) feet   |
| (d) | Multi-family dwellings | Thirty-five (35) feet or greater if required by the board of zoning appeals |
| (e) | All other uses         | Thirty-five (35) feet or greater if required by the board of zoning appeals |
- (9) Maximum lot coverage by all buildings.
- |     |                         |                          |
|-----|-------------------------|--------------------------|
| (a) | Single-family dwellings | Thirty (30) percent      |
| (b) | Two-family dwellings    | Thirty (30) percent      |
| (c) | All other uses          | Twenty-five (25) percent |
- (10) Maximum number of principal buildings.
- |     |                      |  |
|-----|----------------------|--|
| (a) | Single-family        | One (1) principal building   |
| (b) | Two-family dwellings | One (1) principal building   |
| (c) | All other uses       | None providing the provisions of §§ 14-604 through 14-604(9) are met |

(11) Maximum height. (a) No structure shall exceed three stories or thirty-five (35) feet in height except as set forth below:

This limitation shall not apply to belfries, chimneys, church spires, flagpoles, radio and television antennas, and water tanks or stand pipes provided they comply with the provisions of all pertinent codes and ordinances and provided that they are located a distance equal to their height plus ten (10) feet from the nearest property line. In instances where the following criteria are met, maximum height of fifty (50) feet shall be allowed.

(i) The proposal shall receive certification that adequate fire protection measures are designed into the development as reviewed by the Millington Building Department and the Millington Fire Chief.

(ii) An allowable fire flow is assured and all necessary water line sizes, and proximity to fire hydrants is certified as adequate by the Millington Building Department and the Millington Fire Chief.

(iii) The proposal is located adjacent to an arterial or collector status street to ensure adequate accessibility of emergency vehicles.

(b) All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.

(c) No accessory building shall exceed twenty (20) feet in height.

(12) Accessory buildings. Accessory buildings shall conform to the following standards:

- (a) No accessory building shall be utilized for human occupation.
- (b) No accessory building shall extend beyond the required front yard or the front line of the principal building.
- (c) No accessory building shall extend into the required side yard. (1981 Code, § 11.605, as amended by Ord. #1998-8, Aug. 1999)

**14-606. R-5 Residential Mobile Home Park District.** (1) Purpose and intent. These districts are designed to provide suitable areas for mobile home park residential development where appropriate urban services and facilities will be physically and economically feasible. These districts will be characterized by single-family mobile home dwellings in mobile home parks and accessory structures. These districts also include community facilities, public utilities and other uses which serve the residents of these districts.

- (2) Permitted uses. (a) Single-family Mobile Homes in mobile home parks.
- (b) Recreational vehicles in mobile home parks limited to temporary uses of a period not to exceed 30 days.
- (c) Mobile Home Park Offices.
- (d) Accessory buildings customarily incidental to the permitted use.
- (e) Signs are permitted in § 14-1202.
- (3) Uses prohibited. Any use not specifically permitted is prohibited.

(4) Minimum lot size.  
Mobile Home Parks

Eight (8) acres minimum with a minimum 4,500 square foot site for each dwelling unit. Ten (10) percent of the park area will be set aside for recreation and open space requirements. No portion of the 4,500 sq. foot site will count toward the ten percent open space requirement

(5) Development requirements site-plan. All Mobile Home Parks developed in Millington shall meet certain development requirements. A site plan drawn by a licensed engineer bearing a certificate that the final plan as shown is true and correct and shows the development requirements will be met and will be submitted to the planning commission. This site plan shall include the following information.

- (a) Exterior yards. No mobile homes or recreation vehicles will be situated in land adjacent to the boundaries of the mobile home park as set forth below.

(i) Street frontage setbacks. Mobile homes in the mobile home park will be setback a minimum of 50 feet from any public street.

(ii) Side and rear yard setbacks. Mobile homes will be set back a minimum of 30 feet from the side and rear boundary.

(b) Mobile home park screening. There will be screening along the side and rear lot lines. The screening will either be a five (5) foot wide greenstrip with evergreen plants at least five (5) foot tall or a fence of a minimum height of six (6) foot. The fence will be designed to totally block visibility of the development even when the viewer is moving.

(c) Mobile home plot. The site plan will show that there is a plot for each mobile home with a minimum size of 4,500 square feet and that each plot shall front on a street which is part of the mobile home park street system.

(i) Front yards setback for individual mobile home plots shall be a minimum of twenty-five (25) feet.

(ii) Side yards setback for individual mobile home plots shall be a minimum of ten (10) feet. When the parking area for the unit is in the side yard thirty (30) feet additional setback will be required.

(iii) Rear yards setback for individual mobile home plots shall be a minimum of fifteen (15) feet.

(iv) Location of mobile homes on plot. (A) All mobile homes permitted under this section shall be set upon concrete pads and elevated on blocks or steel piers which are constructed upon a concrete footing, and each mobile home shall be anchored with approved anchors as required by Tennessee Code Annotated, § 68-45-103. Each concrete pad shall be a minimum of 10 feet wide.

(B) All mobile homes moved into any mobile home park, existing or new, after the effective date of this ordinance shall be underskirted to prevent the accumulation of refuse and rodents.

(v) Location of accessory buildings. One accessory building not to exceed 150 square feet may be located with each trailer but shall be located at least 10 feet from the principal trailer. In addition, the accessory building shall conform to the following standards.

(A) No accessory building shall be utilized for human occupation.

(B) No accessory building shall extend beyond the required front yard or the front line of the principal building.

(C) No accessory building shall extend into the required side yard.

(D) Accessory buildings may extend into the rear yard but shall be located a distance from the rear property line equal to the height of the structure.

(E) No accessory building shall exceed twenty (20) feet in height.

(d) Street system. (i) The internal street system shall consist of paved streets with a paved surface a minimum of 22 feet wide measured from the edge of the paved surface to the edge of the paved surface.

(ii) The construction standards for the streets are shown: The sub-base shall consist of six (6) inches of crush run, per the subdivision regulation standards, covered by two (2) inches of asphalt.

(e) Water lines shall be a minimum six (6) inch watermain looped for adequate water pressure for fire protection with fire hydrants every five hundred feet and shall be approved by the water and sewer department.

(f) Sewer lines shall be a minimum eight (8) inch sewer pipe, with four (4) inch force mains where applicable, designed according to the standards required in the subdivision regulations and shall be approved by the water and sewer department.

(g) Sidewalks. Three-foot wide concrete or asphalt sidewalks will be provided from mobile home spaces to the mobile home park office. The sidewalks shall be three inches thick to prevent cracking.

(h) Paved parking. All trailer plots shall provide a minimum of 400 sq. feet of paved parking area.

(i) Drainage plan. Shall be prepared by a licensed engineer and approved by the city engineer.

(6) Regulations for establishment of mobile home parks.

(a) Planning commission approval of site plan. (i) The applicant desiring to establish a mobile home park will submit a site plan of the proposed development, along with proof of ownership of the site, as set forth in § 14-1201.

In addition to the site plan information required in § 14-1201, the location of the trailer park and the boundaries of the trailer plots will be indicated.

(ii) The planning commission shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the requested use. These may include but shall not be limited to setbacks, screening, lighting, parking location and layout, access and general landscaping requirements. This power of review shall not include the authority to specify or alter the architectural style of

proposed or existing buildings, the authority to specify building materials, colors or similar considerations.

(b) Licenses and license fees. (i) No mobile home may be located in the City of Millington unless the same shall be in an approved and duly licensed Mobile Home Park.

(ii) It shall be unlawful for any person to maintain or operate within the corporate limits of the City of Millington any mobile home park unless such person shall first obtain a license for that park.

(iii) Licenses shall not be transferred.

(iv) The annual license fee for each mobile home park shall be established by the board of mayor and aldermen of the City of Millington.

(v) The license shall be conspicuously posted in the office of, or on the premises of, the mobile home park at all times.

(c) Application for license. Applications for a mobile home license shall be filed with and issued by the building inspector. Applications shall be in writing signed by the applicant and shall contain the following:

(i) The name and address of the applicant.

(ii) The location and legal description of the mobile home park.

(iii) A complete plan with specifications of all buildings and other improvements constructed or to be constructed within the mobile home park shall be provided. The sketch shall be drawn to scale showing the number and arrangement and size of mobile home plots, pads, parking, roadways, water supply, water outlets location and type of sewage and garbage disposal and location of recreation other facilities.

(iv) Such further information as may be requested by the building inspector to enable him to determine if the proposed park will comply with legal requirements.

The application and all accompanying plans and specifications shall be filed in triplicate. The building inspector, and the health officer shall investigate the applicant and inspect the proposed plans and specifications. If the proposed mobile home park will be in compliance with all provisions of the zoning ordinance, the building inspector shall approve the application and upon completion of park according to the plans, shall issue the license.

(d) Revocation of license. The building inspector shall make periodic inspection of the park to ensure compliance with the zoning ordinance. In case of non-compliance with any provisions of the zoning ordinance, the health officer and/or building inspector shall serve

warning to the licensee. Thereafter upon failure of the licensee to remove said violation, the health officer and building inspector shall have the authority for the revocation of the license. The license may be reissued if the circumstances leading to revocation have been remedied and the park can be maintained and operated in full compliance with the law.

(7) Register of mobile homes. It shall be the duty of the licensee to keep a register containing a record of all mobile home owners located within the park. The register shall contain the following information:

- (a) The make, model and year of all mobile homes;
- (b) Owner and lessee of each mobile home;
- (c) The dates of arrival and departure of each mobile home or recreational vehicle. The park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three (3) years following the date of registration.

(8) Non-conforming mobile home parks. All additions or improvements to an existing non-conforming mobile home park, shall be conforming with these regulations. (1981 Code, § 11.606, as amended by Ord. #1999-9, Aug. 1999)

**14-607. PRD - Planned Residential District.** Within the areas designated PRD (Planned Residential Development) Districts on the Zoning Map of the City of Millington, Tennessee, the following provisions shall apply.

For the purposes of this Ordinance the PRD shall represent an overlay zoning carrying the use restrictions of the underlying residential district. The intent of this zoning classification shall be to promote flexibility in the design of a planned residential development in order to encourage innovative design, better utilize properties for which design under the normal district regulations would be either difficult or unproductive and promote the provision of amenities that would improve the quality of life for the residents.

A request for Planned Residential designation shall involve four separate and distinct steps.

Review and recommendation by the planning commission of a preliminary site plan for Planned Residential Development and an accompanying request for rezoning.

Review and zoning action by the board of mayor and aldermen.

Review and approval by the planning commission of a final site plan for Planned Residential Development.

Approval by the board of mayor and aldermen of a development contract with the city and posting of a performance bond prior to recording of the plat of the Planned Residential Development.

The PRD would allow the full density of the zoning district to be realized while protecting the integrity of the surrounding development. In reviewing a plan submitted as a proposed PRD, the planning commission will evaluate and

weigh the benefits to the residents and the community, as reflected in the provision of green space, pedestrian areas, parks or other amenities, against the benefits to the developer in the form of reduced infrastructure costs and greater yield. The planning commission, in its review, may require the inclusion of features not normally found in areas not designated for PRD development.

(1) Uses permitted. The PRD Planned Residential District may be utilized within areas zoned R-1 Residential District (Low Density), R-2 Residential District (Medium Density), R-3 Residential District (two-family), and R-4 Residential District (High Density).

Permitted uses shall include all permitted uses as set forth in the underlying district.

(2) Special exceptions. Special exceptions are permitted only on approval by the board of zoning appeals as set forth in the underlying district in the sections entitled "Special Exceptions."

No uses shall be allowed except as set forth in this chapter.

(3) Uses prohibited. Any use not specifically permitted or permitted as a special exception by the board of zoning appeals is prohibited.

(4) Minimum lot area. There shall be no requirement for minimum land area under single ownership in a Planned Residential District at the time of rezoning. Individual residential lot sizes will not be regulated provided that the underlying zone district density is maintained. These densities are as follows:

PRD - R-1	4.4 units per acre
PRD - R-2	6.7 units per acre
PRD - R-3	6.7 single units per acre 8.7 two-family units per acre
PRD - R-4	6.7 single units per acre 8.7 two-family units per acre 13.8 Townhouses/multi-family units per acre

All other uses shall conform to the lot size required in the underlying district.

(5) Minimum lot width measured at the building line. No minimum lot width for individual residential lots shall be required. However, the Planned Residential Development shall front a public street for a minimum of 100 feet.

(6) Minimum depth of front yard.

- (a) Adjacent to a collector or arterial street Fifty (50) feet
- (b) Adjacent to a minor residential street Twenty (20) feet

(7) Minimum width of side yards. There shall be a minimum side yard along the boundary of the Planned Residential Development of twenty-five (25) feet.



Within the twenty-five (25) foot periphery boundary, the developer shall provide buffering, screening and/or landscaping as approved by the Millington planning commission. The planning commission shall have the authority to reduce the twenty-five (25) foot boundary when such buffering, screening and/or landscaping proposals are adequate to justify a reduction, however, the periphery boundary shall in no case be reduced to less than ten (10) feet.

Within the Planned Residential Development there shall be provided a ten (10) foot minimum side yard per multi-family dwelling structure and a five (5) foot minimum side yard per structure. This provision shall not be construed to allow any residential type use not allowed in the underlying district.

(8) Minimum depth of rear yard. Within the Planned Residential Development, the minimum rear yard requirement shall be ten (10) feet, except where a larger rear yard is required to meet the boundary requirement of the PRD stated in § 14-607(7) above.

(9) Maximum lot coverage by all buildings. The maximum lot coverage by all buildings in the Planned Residential Development shall be thirty-five (35) percent.

(10) Maximum number of principal buildings. No maximum.

(11) Maximum height. (a) No structure shall exceed three stories or thirty-five (35) feet in height. This limitation shall not apply to belfries, chimneys, church spires, flagpoles, radio and television antennas, and water tanks or stand pipes provided they comply with the provisions of all pertinent codes and ordinances and provided that they are located a distance equal to their height plus ten (10) feet from the nearest property line.

(b) All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.

(c) No accessory building shall exceed twenty (20) feet in height.

(12) Accessory buildings. Accessory buildings shall be permitted in a Planned Residential Development, provided that all accessory buildings on each lot shall be constructed of the same type building materials as the principal structure on said lot and provided that all setback requirements are met.

(13) Streets and utilities.

Streets. Within the Planned Residential Development, each building lot shall be provided with frontage on an approved public street, an approved private street, or access easement. All public and private streets shall meet the standards set forth in the Millington Subdivision Regulations with the following exceptions:

(a) Within a Planned Residential Development (PRD), variations are permitted from the standard street design as follows:

(i) Where standard 6"-30" curbs and gutters will be used, a minimum thirty-one (31) foot ROW is required with thirty (30) feet of paved surface, as measured from curb face to curb face.

(ii) Where "valley" curb and gutters design is used, a minimum thirty-one (31) foot ROW is required, with thirty (30) feet of paved surface, as measured from curb to curb.

(b) Cul-de-sacs will be developed under the existing guidelines of the Millington Subdivision Regulations with the following exception: any cul-de-sac less than 300 feet in length, as measured from the center of the radius of the turn-around to the center of the intersecting street, may be developed with a paved radius of thirty (30) feet and a ROW of thirty and one-half (30.5) feet. Such cul-de-sac must be developed so that it cannot be extended in the future. Cul-de-sacs equal to or greater than 300' in length shall be constructed according to the Millington Subdivision Regulation Standards, and shall have a fifty and one-half foot (50.5) paved radius with fifty-one (51) feet of ROW.

(c) Sidewalks are also required unless otherwise approved by the planning commission, in accordance with Article IV, Section H, of the Millington Subdivision Regulations. The planning commission may vary location and design of sidewalks.

(d) All other design standards and construction standards set forth in the Millington Subdivision Regulations shall be met.

#### Utilities

Within a Planned Residential Development, adjacent to all property lines and rights-of-way, including the periphery boundary, a five (5) foot utility easement, shall be provided, unless otherwise approved by the planning commission. Easements are also required along drainage ways, with the appropriate width to be determined by the city engineer.

All utilities installed in a Planned Residential Development shall be extensions of public lines, and shall be in conformance with the standards adopted by the Millington Public Works Department. All utilities shall be located within the required utility easements noted above. The planning commission reserves the right to require additional easements and rights-of-way if deemed necessary for the health, safety, and welfare of Planned Residential Development residents.

(14) Criteria for review and processing. (a) The planning commission shall review the preliminary site plan for a Planned Residential Development. Approval of the preliminary plan by the planning commission shall constitute a recommendation to the board of mayor and aldermen to rezone to PRD any property included in the plan and to approve the preliminary development plan as submitted. Contents of preliminary site plan shall include:

(i) Name of proposed development and/or address.

(ii) Vicinity map showing the relationship of the proposed development to the City of Millington.

(iii) Name, address, and phone number of owner of record and the applicant.

- (iv) Total land area.
- (v) Scale of not less than 1" = 100'.
- (vi) Present zoning of the site and abutting property.
- (vii) Date and north point.
- (viii) Right-of-way and improvements of abutting streets.
- (ix) All building restricting/setback lines, easements, reservations and rights-of-way.
- (x) Contours at two foot elevations if necessary to illustrate the design.
- (xi) A schematic storm water management plan.
- (xii) The location of the following when existing or proposed:
  - (A) Streets, alleys and easements.
  - (B) Building and structures where applicable.
  - (C) Availability of public water and sewer.
  - (D) Driveways, entrances, and sidewalks and garbage collection site for multi-family developments.
  - (E) Recreational areas, and swimming pools.
  - (F) Natural and artificial water courses.
  - (G) Limits of flood plains if any.
  - (H) Estimates of the following when applicable:
    - (1) Number of dwelling units.
    - (2) Number of off-street parking spaces.
    - (3) Number of garage parking spaces.

(b) The Millington board of mayor and aldermen shall, following the provisions of the zoning ordinance, consider the request for rezoning to PRD. If any change to or departure from the preliminary plan approved by the planning commission is proposed, the board of mayor and aldermen shall not take action regarding such change or departure until after review thereof and recommendation by the planning commission.

(c) Submission for review and approval by the planning commission of a final site plan for Planned Residential Development. Criteria for final site plan reviews shall include submission of all site plan requirements as set forth in section 14-1201 prior to review by the planning commission.

(d) If the final plan is approved by the planning commission, the approval shall be forwarded to the board of aldermen for approval of a contract for development setting the amount of bonds to be posted before the plan is recorded. The final site plan shall be maintained in the permanent files of the City of Millington. (1981 Code, § 11.607, as replaced by Ord. #2004-9, May 2004)

**14-608. R-LL Residential District (Large Lot).** Within the areas designed R-LL (Large Lot) on the Zoning Map of the City of Millington, Tennessee, the following provisions shall apply:

- (1) Uses permitted. (a) Single-family dwellings.
  - (b) Accessory buildings customarily incidental to the permitted use.
  - (c) Signs as permitted in § 14-1202.
- (2) Special exceptions. The following uses are permitted on approval by the board of zoning appeals upon review of the criteria established herein:
  - (a) Uses permitted. (i) Public uses, including, but not limited to municipal, state or federal uses such as schools, museums, office buildings, utilities.
    - (ii) Churches.
    - (iii) Private or parochial schools.
    - (iv) Golf courses or country clubs.
    - (v) Accessory buildings customarily incidental to the permitted use.
  - (b) Criteria for review. (i) The use requested is to be located on a route designated as either an arterial or collector street on the Official Major Road Plan for Millington.
    - (ii) All area, yard, density and parking requirements shall be met.
    - (iii) All site plan requirements, as set forth in § 14-1201 shall be submitted. If approved, all modifications requested by the board of zoning appeals shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the City of Millington.
    - (iv) The board of zoning appeals shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the requested use. These may include but shall not be limited to setbacks, screening, lighting, parking, location and layout, access and general landscaping requirements. This power of review shall include the authority to specify or alter the architectural style of proposed buildings, colors or similar considerations.
- (3) Uses prohibited. Any use not specifically permitted or permitted as a special exception by the board of zoning appeals shall be prohibited.
- (4) Minimum lot area.

(a) Single-family dwellings	Two (2) acres
(b) Public uses:	Two (2) acres except as set forth below:
(i) Schools, including parochial or private	Five (5) acres plus one (1) acre for each one hundred

- |      |   |  |
|------|---|--|
|      | schools   | (100), or fraction of one hundred (100) students over one hundred (100)  |
|      | (c) Churches  | Three (3) acres  |
|      | (d) Golf courses and/or country clubs, including publicly owned | Ten (10) acres   |
| (5)  | <u>Minimum lot width measured at the building line.</u>         |  |
|      | (a) Single-family dwelling                                      | One hundred seventy five (175) feet                                      |
|      | (b) Public uses:  | One hundred seventy five (175) feet except as set forth below:           |
|      | (i) Schools, including parochial and private schools            | Three hundred (300) feet   |
|      | (c) Churches  | Two hundred (200) feet   |
|      | (d) Golf courses and/or country clubs, including publicly owned | Two hundred (200) feet   |
| (6)  | <u>Minimum depth of front yard.</u>                             |  |
|      | (a) Single family dwelling                                      | Thirty five (35) feet  |
|      | (b) All other uses  | Forty (40) feet or greater if required by the board of zoning appeals    |
| (7)  | <u>Minimum width of side yards.</u>                             |  |
|      | (a) Single-family dwellings                                     | Fifteen (15) feet  |
|      | (b) All other uses  | Twenty (20) feet or greater if required by the board of zoning appeals   |
| (8)  | <u>Minimum depth of rear yard.</u>                              |  |
|      | (a) Single-family dwelling                                      | Thirty (30) feet   |
|      | (b) All other uses  | Forty (40) feet or greater if required by the board of zoning appeals    |
| (9)  | <u>Maximum lot coverage by all buildings.</u>                   |  |
|      | (a) Single-family dwellings                                     | Thirty (30) percent  |
|      | (b) All other uses  | Twenty-five (25) percent   |
| (10) | <u>Maximum number of principal buildings.</u>                   |  |
|      | (a) Dwellings   | One (1) principal building   |
|      | (b) All other uses  | None providing the provisions of §§ 14-608(4) through 14-608(9) are met. |

(11) Maximum height. (a) No structure shall exceed three (3) stories or thirty-five (35) feet in height. This limitation shall not apply to belfries, chimneys, church spires, flagpoles, radio and televisions antennas, and water tanks or stand pipes provided they comply with the provisions of all pertinent codes and ordinances and provided they are located a distance equal to their height plus ten (10) feet from the nearest property line.

(b) All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.

(c) No accessory building shall exceed twenty (20) feet in height.

(12) Accessory buildings. Accessory buildings shall conform to the following standards:

(a) No accessory building shall be utilized for human occupation.

(b) No accessory building shall extend beyond the required front yard or the front line of the principal building.

(c) No accessory building shall extend into the required side yard.

(d) Accessory buildings may extend into the rear yard and shall be located a distance from the rear property line equal to the height of the structure.

(e) Accessory buildings shall not cover more than thirty (30) percent of the required yard.

(f) Any and all accessory buildings must be built of the same type construction and the same materials as the principal building. (Ord. #1997-3, May 1997)

**14-609. Prohibition of towers for commercial mobile communications services.** No tower for use by or in connection with commercial mobile communications services shall be permitted in any district zoned for residential use, either by right or under a special exception. (Ord. #1997-17, Feb. 1998)

**14-610. A Agricultural District.** Within the areas designated "A Agricultural District" on the Zoning Map of the City of Millington, Tennessee, the following provisions shall apply:

(1) Uses permitted. Property and buildings in an "A" district shall be used only for the following purposes:

(a) Forestry and agricultural uses.

(b) Single family dwellings.

(c) Parks and public buildings.

(d) Roadside stands, offering for sale only farm products which are produced upon the premises.

(e) Public bulletin board or temporary signs not exceeding 20 square feet in area, pertaining only to the lease, hire or sale of a building on the premises or of the premises, or the sale of products grown and sold on the premises; provided, however, that not more than one sign of the above character shall be permitted on any lot or tract.

(f) Public utilities, including water treatment plants, sewage treatment plants and electrical plants.

(g) Customary home occupations.

(h) Accessory buildings, including a private garage, satellite antennae, swimming pool and accessory uses customarily incidental to the above uses, but not involving the conduct of a business unless otherwise specified.

(i) Accessory buildings, other than roadside stands, may not be built in front yards and shall not occupy more than forty (40%) percent of the required rear yard. Roadside stands shall not protrude onto the right-of-way of any street.

(ii) Accessory buildings located in a rear yard shall not be nearer than ten (10) feet to any rear lot line.

(iii) Accessory buildings may be built in side yards but shall not be nearer than ten (10) feet to any side lot line.

(2) Uses permitted on appeal. Following public notice and hearing, and subject to appropriate conditions and safeguards, the board of zoning appeals may permit the following uses:

(a) Public schools, institutions of higher learning and parochial or private schools having a curriculum similar to that ordinarily given in public schools and having no rooms regularly used for housing or sleeping purposes, except staff quarters located on the premises of the school.

(b) Cemeteries, including mausoleums; provided that mausoleums shall be at least two hundred (200) feet from every street line and adjoining lot lines.

(c) Private clubs, except skeet and gun clubs and those the chief activity of which is a service customarily carried on as a business.

(d) Riding stables, veterinarian hospitals or clinics, large animals, or the keeping of small animals; provided that any building or enclosure housing animals shall be located at least one hundred (100) feet from all property lines.

(e) Grain elevators or similar storage structures, including buildings for seasonal or temporary storage of grain.

(f) Hospitals and institutions of an educational, religious, charitable, or philanthropic nature, provided, however, that such buildings shall not be located upon sites containing an area of less than five (5) acres, may occupy not over twenty percent (20%) of the total area of the lot, and providing that the buildings shall be set back from all lot lines a distance of not less than fifty (50) feet.

(g) Churches and other places of worship.

(3) Height regulations. (a) No building or structure shall exceed forty-five (45) feet in height. Furthermore, any building or structure exceeding thirty-five (35) feet in height shall be erected only with certification from the city fire chief that such building or structure as proposed to be located, constructed or equipped, and particularly occupants of upper stories, can be properly protected in case of fire.

(b) No accessory building shall exceed twenty-five (25) feet in height.

(c) Free-standing poles, spires, towers, monuments, water tanks, windmills, smokestacks, derricks, conveyors, antennae (other than satellites) and similar structures not designed for, or suitable for human occupancy may exceed these height provisions provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten (10) feet from the nearest property line.

(d) These provisions shall not apply to chimneys, residential antennae of less than fifty (50) feet, church spires, belfries, cupolas and domes which are not intended for human occupancy.

(4) Area regulations. (a) Lot area. (i) Single family dwellings. Where public water and sewer are available, every lot or tract of land shall have an area of not less than twenty thousand (20,000) square feet and a width of not less than one hundred (100) feet at the property line. (On permanent dead-end streets with a cul-de-sac turnaround, the lot width at the building line may be reduced to fifty (50) feet).

(ii) Other uses. Every lot shall have an area of not less than one (1) acre and a width of not less than one hundred (100) feet at the building line.

(iii) Where public water and/or sewer are not available, additional lot area may be required to meet the requirements of Shelby County Health Department regulations.

(b) Front yard. (i) There shall be a front yard having a depth of not less than forty (40) feet.

(ii) On double frontage and corner lots, there shall be a front yard on each street, provided, however, that the buildable width of a corner lot of record at the time of passage of this section need not be reduced to less than thirty (30) feet.

(iii) Any fence, wall or hedge may be permitted in any front yard, however, in any required front yard, however, in any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of two and one-half (2 1/2) feet, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard



between the heights of two and one-half (2 1/2) feet and ten (10) feet. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.

(iv) An, open unenclosed porch or paved terrace may project in to a front yard for a distance not exceeding ten (10) feet.

(c) Side yard. There shall be a side yard on each side of a building in accordance with the following minimum requirements:

(i) On each side of a single family dwelling, there shall be a side yard having a width of not less than fifteen (15) feet.

(ii) All other main buildings shall provide a side yard on each side having a width of not less than twenty-five (25) feet.

(iii) Attached terraces, uncovered porches, unenclosed carports, heating and air conditioning units, platforms, and ornamental features which do not extend more than three (3) feet above the floor level of the ground story may project into a required yard, provided these projections be at least ten (10) feet from the adjacent lot line.

(d) Rear yard. (i) There shall be a rear yard having a depth of not less than thirty (30) feet or twenty (20%) percent of the depth of the lot, whichever amount is smaller, provided that not rear yard shall be less than twenty-five (25) feet in depth.

(ii) Every part of the required rear yard shall be open to the sky except for permitted accessory buildings and projections. An open unenclosed porch or balcony may project into a required rear yard for a distance not exceeding ten (10) feet.

(5) Off-street parking. Off street parking shall be in accordance with § 14-1203 of the Millington Municipal Code. (as added by Ord. #2003-2, April 2003, and amended by Ord. #2014-16, Nov. 2014)

CHAPTER 7

**COMMERCIAL DISTRICT PROVISIONS**

**SECTION**

- 14-701. B-1 Neighborhood Commercial District.
- 14-702. B-2 General Commercial.
- 14-703. P-C Planned Commercial District.
- 14-704. "O" Office District.

**14-701.B-1 Neighborhood Commercial District.** Within the areas designated B-1 (Neighborhood Commercial) on the Zoning Map of the City of Millington, Tennessee the following provisions shall apply:  
Tennessee, the following provisions shall apply:

(1) Chart one permitted uses.

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT
<b>RESIDENTIAL AND AGRICULTURAL</b>																		
Events and Agricultural	P																	
Agricultural and agricultural related activities, excluding stockyards and live animals															P	A		
Single family dwellings	P	P	P	P	P	P		P										
Two-family dwellings																		
Townhouse dwellings																		
Multi-family Dwellings																		
Mobile homes							S											
Mobile homes and mobile home parks							S											
Recreational vehicles in mobile home parks not to exceed 30 days																		
Public Uses, Parks and Public Buildings and services	P	P	P	P	P	P		P							P	P	P	
Roadside stands, offering for sale produce produced on the premises	P																	
Signs, permanent or temporary signs	P																	
Public Utilities	P																	
Accessory Buildings	P	P	P	P	P	P		P										
Public and Private Schools	A	A	A	A	A	A		A							P	S	S	
Business and Professional Schools																		
Dormitories and other lodging related to a Business or Professional School															S	S	S	
Cemeteries	A																	
Offices, including financial	A																	
Public works, including streets or sidewalks	A																	
Clinics, large animals, or the keeping of small animals	A																	
Gran elevators or similar storage facilities	A																	
Hospitals and institutions of an educational, religious, charitable or therapeutic nature	A																	
Clubhouses, places of worship	A	A	A	A	A	A		A										
Golf Courses or Country Clubs	A	A	A	A	A	A		A										
Day care centers																		
Assisted living facilities																		
Nursing Homes																		
<b>NON RESIDENTIAL USES</b>																		
Personal Services including:																		
Self-service laundry																		
Dry cleaning pickup and delivery services																		
Beauty and Barber services																		
Shoe repair																		

Chart 1 Page 1  
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P Permitted Use  
A Use permitted on appeal by BSA as a Special Exception and requires a Site Plan approval

CHART ONE, PERMITTED USES

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT
Apparel repair and alterations											\$	\$	\$						
Bank											\$	\$	\$	\$					
Kindergartens and child care homes											\$	\$	\$	\$					
Retail trade, including:																			
Building materials, hardware and farm equipment												\$			\$				
General merchandise																			
Food and groceries																			
Automotive, marine craft, aircraft and accessories, excluding auto junk yards															\$	\$	\$		
Automotive, marine craft, aircraft and accessories, limited to tires, batteries and accessories, and Gasoline service stations															\$	\$	\$		
Apparel and accessories																			
Furniture, home furnishings and equipment																			
Eating and drinking											\$	\$	\$	\$	\$	\$	\$		
Other retail trade																			
Other retail trade limited to Drug and proprietary, book and stationary											\$			\$					
Services, including:																			
Offices											\$	\$	\$	\$	\$	\$	\$		
Finance, insurance and real estate											\$	\$	\$	\$	\$	\$	\$		
Personal services											\$	\$	\$	\$	\$	\$	\$		
Business services															\$	\$	\$		
Businesses services limited to: Dwelling and other building services; Research development and testing; Equipment renting and leasing; Automotive and truck renting; and Electronic configuration and/or services																			
Funeral Home												\$							
Personal storage, limited												\$							
Repair services excluding tire recapping services												\$							
Automobile repair and wash services												\$	\$						
Electrical and electronic devices																\$	\$		
Professional services											\$	\$	\$	\$	\$	\$	\$		
Professional services limited to: medical laboratories; dental laboratory and other medical and health services															\$	\$	\$		
Contract construction services											\$	\$			\$	\$	\$		
Contract construction services office											\$	\$			\$	\$	\$		
Educational services											\$	\$			\$	\$	\$		
Veterinary Hospital or Clinic, Small Animal											\$	\$	\$	\$	\$	\$	\$		

P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by BCA as a Special Exception and requires a Site Plan approval

CHART ONE, PERMITTED USES

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT
Miscellaneous services												S							
Mini Storage												A	A						
Amusements												S				P			
Recreational activities												S	S						
Transient Lodging: Motels, Hotels and Tourist Courts												S	S						
Public Assembly												S							
Taxicab business, storage and garage												S	S						
Sexually oriented businesses												S							
Cultural Entertainments and Recreation												S	S						
Motion picture theatres												S	S						
Recreational activities limited to sports, recreational centers, gymnasiums and athletic clubs												S							
Manufacturing, including Apparel and other products made from fabrics, leather and similar products, excludes leather tanning and finishing																			
Food, beverage and kindred products																			
Furniture and fixtures																			
Printing, publishing and allied industries																			
Paper and allied products, limited to paperboard containers and boxes																			
Drug manufacturing																			
Fabricated metal products, excluding stamping																			
Fabricated metal products																			
Textile mill products																			
Rubber and miscellaneous plastic products																			
Professional, scientific and controlling instruments; electronic configuration and repair; Photographic and optical goods; and watches and clocks manufacturing																			
Lumber and wood products																			
Chemical and allied products limited to Drugs, soap, detergents and cleaning preparations																			
Chemical and allied products																			
Stone, Clay and glass products																			
Petroleum refining and related industries																			
Primary metal limited to rolling, drawing and extruding of ferrous and non-ferrous metals																			
Transportation Communication and Utilities																			

P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by BZA as a Special Exception and requires a site plan approval

CHART ONE, PERMITTED USES

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT
Airport and Aviation Related Uses																			
Communication															S	S	S		
Communication towers	A											A			A	A	A	A	
Utilities																			
Motor vehicle transportation													A						
Other communication															S				
Wholesale trade limited to:																			
Motor vehicles and automotive equipment, excluding auto salvage and junkyards															S	S	S	S	
Drugs, drug proprietaries and druggists supplies															S	S	S	S	
Drugs, chemicals and allied products																S	S	S	
Dry goods and apparel															S	S	S	S	
Farm products excluding live animals																S	S	S	
Groceries, beverages and related products															S	S	S	S	
Electrical and electronic goods															S	S	S	S	
Hardware, plumbing, heating equipment and supplies															S	S	S	S	
Machinery, equipment and supplies																S	S	S	
Metals and minerals, excluding petroleum products																S	S	S	
Office, paper and paper products																S	S	S	
Lumber and construction materials																S	S	S	
Other Wholesale not listed, excluding: Metals, plastic and minerals; Petroleum bulk stations and terminals; Scrap and waste metals; and Livestock or live animals															S	S	S	S	
Other Wholesale trade limited to petroleum bulk stations and terminals and wholesale scrap and waste materials																		S	
Warehousing and Storage services excluding stockyards																S	S	S	
<b>OTHER</b>																			
Signs as permitted in Section 14-202	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
United States Government uses at the sole discretion and pleasure of the military authority in charge																			P
Planned Residential District			S	S	S	S	S												
Mixed Use Planned Developments			S	S	S	S	S					S	S						

P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by BZA as a Special Exception and requires a site plan approval

(2) Chart two, district and use bulk regulations.

Chart 2 - District and Use Bulk Regulations Revised 7/3/15	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Requirements		
	Lot Area (Square feet)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)	Height (Feet)	Units per Acre	(%) Lot Coverage
<b>A Agricultural District</b>								
Single Family Detached Dwelling	20,000 *	100	40	15	25 **	35	2.18	0
Agriculture	One acre	100	40	25	25 **	45	n/a	0
Other	One acre	100	40	25	25 **	45	n/a	0
<b>R-O Residential District</b>								
Single Family Detached Dwelling	15,400	110	35	10	30	35	2.83	30
Public Uses	20,000	110	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25
Churches	3 acres	200	40	20	40	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	40	20	40	35	n/a	25
<b>R-1 Residential District</b>								
Single Family Detached Dwelling	6,500	80	30	10	30	35	6.7	30
Public Uses	20,000	100	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25
Churches	3 acres	200	40	20	40	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	40	20	40	35	n/a	25
<b>R-2 Residential District</b>								
Single Family Detached Dwelling	6,500	65	25	8	25	35	6.7	30
Public Uses	20,000	100	35	35	35	35	n/a	25
Schools, public private and parochial	5 acres ***	300	35	35	35	35	n/a	25
Churches	3 acres	200	35	35	35	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	35	35	35	35	n/a	25
<b>R-3 Residential District</b>								
Single Family Detached Dwelling	6,500	65	25	8	25	35	6.7	30
Two family dwellings	10,000	80	25	10	25	35	4.36	30
Public Uses	20,000	100	<del>15</del> 35	15	35	35	n/a	25
Schools, public private and parochial	5 acres ***	300	<del>15</del> 35	15	35	35	n/a	25
Churches	2 acres	200	<del>15</del> 35	15	35	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	<del>15</del> 35	15	35	35	n/a	25
Day Care Centers			<del>15</del> 35	15	35	35	n/a	25
Assisted Living Facilities			<del>15</del> 35	15	35	35	n/a	25
Nursing Homes			<del>15</del> 35	15	35	35	n/a	25
<b>R-4 Residential District</b>								
Single Family Detached Dwelling	6,500	65	25	8	25	35	6.7	30
Two family dwellings	10,000	80	25	10	25	35	4.36	30
Townhouse dwellings	11,500 #	100	25	10/15 ###	25	35	12.82	25
Multi-family dwellings	11,500 #	100 ##	25	10/15 ###	35	35	12.82	25
Public Uses	20,000	100	35	15	35	35	n/a	25
Schools, public private and parochial	5 acres ***	300	35	15	35	35	n/a	25
Churches	2 acres	200	35	15	35	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	35	15	35	35	n/a	25
Day Care Centers			35	15	35	35	n/a	25
Assisted Living Facilities			35	15	35	35	n/a	25
Nursing Homes			35	15	35	35	n/a	25
<b>R-5 Residential Mobile Home Park</b>								
Entire development	8 acres		50	30	30	35	n/a	
Single family mobile homes and recreational vehicles	4,500 per unit		25	10	15	35	n/a	n/a
Office			50	30	30	35	n/a	n/a
<b>R-LL Residential District</b>								
Single Family Detached Dwelling	2 acres	175	35	15	30	35	0.5	30
Public Uses	2 acres	175	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25
Churches	3 acres	200	40	20	40	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	40	20	40	35	n/a	25
<b>B-1 Neighborhood Commercial</b>								
Permitted commercial and office uses	0	0	30	10/20 ^	30	35	n/a	25
Public uses	20,000	100	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25

Chart 2 Page 1

Chart 2 - District and Use Bulk Regulations Revised 7/3/15	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Requirements		
	Lot Area (Square feet)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)	Height (Feet)	Units per Acre	(%) Lot Coverage
Churches	2 acres	200	40	20	40	35	n/a	25
B-2 General Commercial	0	0	50	10/0^^	20/25 ^^^	35		45
P-C Planned Commercial								
Entire Development	5 acres	100'	n/a	n/a	n/a	n/a	n/a	n/a
Individual permitted uses	0	0	50	25	25	35	n/a	0
O Office	0	0	50	10/0+	20/25 ^^^	35		0
M-1 Light Industrial	0	0	40	20/40++	20/40 ^^	50	n/a	50
M-2 General Industrial	0	0	50	25/40 +++	25/40 +++	50	n/a	65
M-P Planned Industrial	0	0	50	25/40 +++	25/40 +++	50	N/A	65
M-3 Restricted Industrial	0	0	50	50/100	50/100	50	n/a	35
M-T Military Zone	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Veterans Parkway Corridor Overlay								
R-4 Residential (townhouse only)	11,500 #	100	0	10/15 ###	25		12.82	25
B-1 Neighborhood Commercial	0	0	0	10/20 ^	30	35	n/a	25
B-2 General Commercial	0	0	10	10/0^^	20/25 ^^^	35		45
P-C Planned Commercial (individual permitted uses)	0	0	10	25	25	35	n/a	0
O Office	0	0	10	10/0+	20/25 ^^^	35		0
M-1 Light Industrial	0	0	20	20/40++	20/40 ^^	50	n/a	50
M-P Planned Industrial	0	0	30	25/40 +++	25/40 +++	50	n/a	65

- \* Where no public sewer is provided the lot size shall be increased to meet Health Department regulations.
- \*\* Not less than 30' or 20% of the lot depth, whichever is smaller, provided in no case shall it be less than 25'.
- \*\*\* 5 acres plus one acre for each one-hundred or fraction of one-hundred students over one-hundred.
- # 11,500 square feet (sq. ft.) for the first unit, plus 2,500 sq. ft. for each additional unit.
- # 100' for the development and each townhouse lot shall have 20' for frontage.
- ## 10' on end or internal units and 15 where it borders an adjacent property.
- ### 10' where it is adjacent to commercial and 20' where it is adjacent to residential.
- ^ 10', provided the Planning Commission may allow a 0' side yard in the case of common wall buildings. Where these uses are adjacent to residential the side yard shall be the greater of 10' or the side yard in the adjacent residential zoning.
- ^^ The rear yard is 20' adjacent to commercial and 25' adjacent to residential.
- ^^^ 10', provided the Planning Commission may allow a 0' side yard in the case of common wall buildings. Where the use is adjacent to residential, the side yard shall be the same as the adjacent residential zoning plus 15'.
- ++ 20' where it is adjacent to commercial non-residential and 40' where it is adjacent to residential.
- +++ 25' where it is adjacent to commercial non-residential and 40' where it is adjacent to residential.

(3) Maximum number of principal buildings.

All Uses

None providing the provision of §§ 14-701(4) through 14-701(9) are met

(4) Accessory buildings. Accessory buildings shall conform to the following standards:

(a) No accessory building shall extend beyond the required front yard or the front line of the principal building.

(b) No accessory building shall extend into the required side yard.

(c) Accessory buildings may extend into the rear yard but shall be located a distance from the rear property line equal to the height of the structures.

(d) Accessory buildings shall not cover more than thirty (30) percent of required rear yard.

(5) Site plan and design review. Prior to the issuance of a building permit all site plan requirements as set forth in § 14-1201 and all design review requirements as set forth in § 14-1201 shall be submitted for review by the planning commission. If approved, any modification required by the planning commission shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the City of Millington.

(6) Enclosure requirements. All uses shall be conducted within completely enclosed buildings except for parking, loading and other accessory uses which by their nature must exist outside a building.

(7) Exterior storage. Exterior storage of goods or materials of any kind is prohibited. The placement of waste disposal facilities is permitted in rear yards only, and such facilities shall be appropriately screened and maintained using the same material from which the principal use is constructed.

(8) Prohibition of towers for commercial mobile communications services. No tower for use by or in connection with commercial mobile communications services shall be permitted in B-1 Districts, either by right or under a special exception. (1981 Code, § 11.701, as amended by Ord. #1997-17, Feb. 1998, Ord. #2015-14, Sept. 2015, and Ord. #2018-12, Aug. 2018)

**14-702. B-2 General Commercial.** The B-2 (General Commercial) District shall be considered a general highway oriented commercial-service oriented district. Within the areas designated B-2 (General Commercial) on the Zoning Map of the City of Millington, Tennessee, the following provisions shall apply.

(1) Uses permitted. (a) Wholesale trade except scrap and waste materials wholesale and auto junk yards wholesale

(b) Retail trade.

(i) Retail trade- building materials, hardware, and farm equipment



- (ii) Retail trade - general merchandise
- (iii) Retail trade - food
- (iv) Retail trade- automotive, marine craft, aircraft and accessories, except auto junk yards
- (v) Retail trade - apparel and accessories
- (vi) Retail trade - furniture, home furnishing and equipment
- (vii) Retail trade - eating and drinking
- (viii) Other retail trade
- (c) Services.
  - (i) Finance, insurance and real estate services
  - (ii) Personal services
  - (iii) Business services - excluding warehousing and storage services
  - (iv) Personal storage, when such storage is a subordinate use on the same lot as the principal use. Subordinate use shall mean the use shall occupy less square footage than the principal use. In addition, the following conditions must be met:
    - (A) Access to the storage units shall be through an individual interior door only. Exterior doors shall only allow access to the interior of the building;
    - (B) The following uses will be specifically prohibited:
      - (1) Food products storage.
      - (2) Agricultural products storage.
      - (3) Automobile, boats, and motor vehicles storage.
      - (4) Sales.
      - (5) Use as a work area.
      - (6) Commercial warehousing by 3rd party.
      - (7) Flammable products storage or explosive products.
    - (C) All storage shall be located within the personal building.
  - (v) Repair services except tire retreading.
  - (vi) Professional services.
  - (vii) Contract construction services.
  - (viii) Educational services.
  - (ix) Miscellaneous services.
  - (x) Mini-storage facilities for use by the public, provided the following conditions are met:
    - (A) Any lot on which a mini-storage facility is located shall be not less than 3 acres; and

(B) Plans for any mini-storage facility shall be subject to review and approval by the Millington Planning Commission.

- (xi) Veterinary hospital or clinic, small animal.
- (d) Amusements.
- (e) Recreational activities.
- (f) Transient lodging.
  - (i) Motels.
  - (ii) Tourist courts.
  - (iii) Hotels.
- (g) Public uses, including but not limited to municipal, state, or federal uses such as schools, museums, office buildings and utilities.
- (h) Educational services.
- (i) Miscellaneous services.
- (j) Public assembly.
- (k) Accessary buildings customarily incidental to the permitted use.
  - (l) Signs as permitted in § 14-1202.
  - (m) Taxicab business, storage and garage.

(2) Special exceptions. No uses are permitted on approval by the board of zoning appeals, except that towers for use by or in connection with commercial mobile communications services may be permitted in B-2 Districts upon such approval, subject to applicable provisions of this zoning ordinance.

(3) Uses prohibited. Any use not specifically permitted by the ordinance is prohibited.

- (4) Minimum lot area.  
All uses except for mini-storage facilities      No minimum providing all yard density, and parking requirements are met
- (5) Minimum lot width measured at the building line.  
All uses      No minimum providing all yard density and parking
- (6) Minimum depth of front yards.  
All uses      Fifty (50) feet
- (7) Minimum width of side yards.  
All uses      None provided that the structure abuts the side lot line. If the structure does not abut the side lot line it must be located ten feet from the side lot line. When adjacent to a residential district the

minimum side lot shall be that of the residential district.

- (8) Minimum depth of rear yard.  
All uses

Twenty (20) feet provided that when the commercial lot adjoins a residential district along the rear lot line that the minimum depth of rear yard shall be twenty-five (25) feet

- (9) Maximum lot coverage by all buildings.  
All uses

Forty-five (45) percent

- (10) Maximum number of principal buildings.  
All uses

None providing the provisions of §§ 14-702(4) through 14-702(9) are met

- (11) Maximum height. (a) No structures shall exceed three (3) stories or thirty-five (35) feet in height except as set forth below:

This limitation shall not apply to belfries, chimneys, church spires, flagpoles, radio spires, and television antennas, water tanks, or stand pipes provided they comply with the provisions of all pertinent codes and ordinances and provided that they are located a distance equal to their height plus ten (10) feet from the nearest property line.

In instance where the following criteria area met, maximum height of fifty (50) feet shall be allowed.

- (i) The proposal shall receive certification that adequate fire protection measures are designed into the development as reviewed by the Millington Building Department and the Millington Fire Chief.

- (ii) An allowable fire flow is assured and all necessary water line sizes, and proximity to fire hydrants is certified as adequate by the Millington Building Department and the Millington Fire Chief.

- (iii) The proposal is located adjacent to an arterial or collector status street to ensure adequate accessibility of emergency vehicles.

- (b) All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.

- (c) No accessory building shall exceed twenty (20) feet in height.

- (12) Accessory buildings. Accessory buildings shall conform to the following standards:

(a) No accessory building shall extend beyond the required front yard or the front line of the principal building.

(b) No accessory building shall extend into the required side yard.

(c) Accessory buildings may extend into the rear yard but shall be located a distance from the rear property line equal to the height of the structure.

(d) Accessory buildings shall not cover more than thirty (30) percent of the required rear yard.

(13) Site plan and design review. Prior to the issuance of a building permit all site plan requirements as set forth in § 14-1201 and all design review requirements as set forth in § 14-1201 shall be submitted for review by the planning commission. If approved, any modification required by the planning commission shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the City of Millington.

(14) Enclosure requirements. All uses shall be conducted within completely enclosed buildings except for parking, loading and other accessory uses which by their nature must exist outside a building.

(15) Exterior storage. Exterior storage of goods or materials of any kind is prohibited. The placement of waste disposal facilities is permitted in rear yards only, and such facilities shall be appropriately screened and maintained using the same material from which the principal use is constructed.

(16) B-2, Neighborhood Shopping Center. A group of commercial establishments planned, developed, owned, and managed as a unit, with off-street parking provided on the property, and related in its location, size, and type of shops to the trade area which the unit serves, with a minimum of four shops at a site containing more than two (2) acres.

(17) Uses permitted. (a) Retail trade.

(i) Retail trade - general merchandise.

(ii) Retail trade - food.

(iii) Retail trade - automotive, marine craft, aircraft and accessories.

(iv) Retail trade - apparel and accessories.

(v) Retail trade - furniture, home furnishing and equipment.

(vi) Retail trade - eating and drinking.

(vii) Other retail trade.

(b) Services.

(i) Finance, insurance and real estate services.

(ii) Personal services.

(iii) Business services - excluding warehousing and storage services.

(iv) Professional services.

(c) Amusements.

- (d) Recreational activities.
- (e) Accessory buildings customarily incidental to the permitted use.
- (f) Signs as permitted in § 14-1202.
- (18) Special exceptions. No uses may be permitted by the board of zoning appeals.
- (19) Uses prohibited. Any use not specifically permitted by the ordinance is prohibited.
- (20) Minimum lot area.  
All uses Two (2) Acres
- (21) Minimum lot width measured at the building line.  
All uses One Hundred (100) feet
- (22) Minimum depth of front yards.  
All uses Fifty (50) feet
- (23) Minimum width of side yards.  
All uses Twenty-five (25) feet
- (24) Minimum depth of rear yard.  
All uses Twenty-five (25) feet
- (25) Maximum lot coverage by all buildings.  
All uses Forty-five (45) percent
- Maximum number of principal buildings.  
All uses None providing the provisions of §§ 14-702(20) through 14-702(25) are met
- (26) Maximum height. (a) No structure shall exceed three (3) stories.  
(b) All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.  
(c) No accessory building shall exceed twenty (20) feet in height.
- (27) Accessory buildings. Accessory buildings shall conform to the following standards:  
(a) No accessory building shall extend beyond the required front yard or the front line of the principal building.  
(b) No accessory building shall extend into the required side yard.  
(c) Accessory buildings may extend into the rear yard but shall be located a distance from the rear property line equal to the height of the structure.  
(d) Accessory buildings shall not cover more than thirty (30) percent of the required rear yard.
- (28) Site plan review. Prior to the issuance of a building permit, all site plan requirements as set forth in § 14-1201 shall be submitted for review by the building inspector. If approved, any modifications required by the building

inspector shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the City of Millington. (1981 Code, § 11.702, as amended by Ord. #1997-17, Feb. 1998; Ord. #1999-7, Aug. 1999; Ord. #2005-11, June 2005, and Ord. #2014-16, Nov. 2014)

**14-703. P-C Planned Commercial District.** The P-C (Planned Commercial) District shall be utilized to regulate proposals which requires a unified planned development of one or more structures housing multiple commercial and service uses, commonly referred to as shopping centers or shopping malls. Within the areas designated P-C (Planned Commercial) on the Zoning Map of the City of Millington, Tennessee, the following provisions shall apply.

- (1) Uses permitted. (a) Retail sales limited to:
  - (i) Retail trade- general merchandise.
  - (ii) Retail trade - food.
  - (iii) Retail trade- automotive, marine craft, aircraft and accessories - including only:
    - (A) Tire, batteries and accessories.
    - (B) Gasoline service stations.
  - (iv) Retail trade - Apparel and accessories.
  - (v) Retail trade - furniture, homefurnishings and equipment.
  - (vi) Retail trade - eating and drinking.
  - (vii) Other retail trade.
- (b) Services, limited to:
  - (i) Finance, insurance and real estate services.
  - (ii) Personal services.
  - (iii) Business services - excluding warehousing and storage services.
  - (iv) Repair services - limited to:
    - (A) Automobile repair services except tire retreading.
    - (B) Automobile wash services, where the service is subordinate to permitted retail trade.
  - (v) Professional services.
  - (vi) Governmental services - excluding correctional institutions.
  - (vii) Mini-storage facilities for use by public, provided the following conditions are met:
    - (A) Any lot on which a mini-storage facility is located shall be not less than 3 acres; and
    - (B) Plans for any mini-storage facility shall be subject to review and approval by the Millington Planning Commission.

- (viii) Veterinary hospital or clinic, small animal.
- (c) Cultural entertainment and recreation limited to:
  - (i) Amusements. - including only:
    - (A) Entertainment assembly - motion picture theaters.
  - (ii) Recreational activities including only:
    - (A) Sports activities.
  - (iii) Playgrounds and athletic areas including only;
    - (A) Recreation centers.
    - (B) Gymnasiums and athletic clubs.
- (d) Public uses, including but not limited to municipal, state or federal uses.
- (e) Signs as permitted in § 14-1202.
- (f) Taxicab business, storage and garage.
- (2) Special exceptions. No uses are permitted on approval by the board of zoning appeals.
- (3) Uses prohibited. Any use not specifically permitted by the ordinance.
- (4) Minimum lot area. The minimum site area for the P-C (Planned Commercial) district shall be 5 acres or 217,800 square feet. All developments shall meet the minimum site area. However, within the development, internal divisions of property may be allowed which are in conformity with the approved site plan as required in § 14-703(13) of these district regulations. There shall be no minimum lot area for these internal divisions providing all yard, density and parking requirements are met.
- (5) Minimum lot width measured at the building line.
 

All uses	One hundred (100) feet for the development. However, divisions made within the development shall have no minimum providing all yard, density and parking requirements are met*
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- (6) Minimum depth of front yard.
 

All uses	Fifty (50) feet*
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- (7) Minimum width of side yards.
 

All uses	Twenty-five (25) feet*
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- (8) Minimum depth of rear yard.
 

All uses	Twenty-five (25) feet*
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\* The minimum yard requirements set forth above shall apply to the periphery boundaries of the development and not to internal divisions of property on individual buildings within the development.

In the instance where common or adjoining wall construction is not utilized, a minimum distance of ten (10) feet shall be provided between structures. Structures not constructed at the side lot line shall be located at least (10) feet from the side lot line except as set forth in § 14-703(7) above.

(9) Maximum lot coverage by all buildings.

All uses None, provided all area, yard and parking requirements are met.

(10) Maximum number of principal buildings.

All uses None, providing all area, yard and parking requirements are met.

(11) Maximum height. (a) No structures shall exceed three (3) stories or thirty-five (35) feet in height except as set forth below:

This limitation shall not apply to belfries, chimneys, church spires, flagpoles, radio and television antennas and water tanks, or stand pipes provided they comply with the provisions of all pertinent codes and ordinances and provided that they are located a distance equal to their height plus ten (10) feet from the nearest property line.

In instances where the following criteria are met, maximum height of fifty (50) feet shall be allowed.

(i) The proposal shall receive certification that adequate fire protection measures are designed into the development as reviewed by the Millington Building Department and the Millington Fire Chief.

(ii) An allowable fire flow is assured and all necessary water line sizes, and proximity to fire hydrants are certified as adequate by the Millington Building Department and the Millington Fire Chief.

(iii) The proposal is located adjacent to an arterial or collector status street to ensure adequate accessibility of emergency vehicles.

(b) All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.

(c) No accessory building shall exceed (20) feet in height.

(d) Accessory buildings shall not cover more than thirty (30) percent of the required rear yard.

(12) Landscaping. The first ten (10) feet of any required yard adjacent to a street shall be devoted to landscaping. This provisions shall not apply to any required rear yard except when the rear yard adjoins a residential district. All other required yards shall be landscaped.

(13) Site plan and design review. Prior to the issuance of a building permit all site plan requirements as set forth in § 14-1201 and all design review requirements as set forth in § 14-1201 shall be submitted for review by the



planning commission. If approved, any modification required by the planning commission shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the City of Millington.

(14) Enclosure requirements. All uses shall be conducted within completely enclosed buildings except for parking, loading and other accessory uses which by their nature must exist outside a building.

(15) Exterior storage. Exterior storage of goods or materials of any kind is prohibited. The placement of waste disposal facilities is permitted in rear yards only, and such facilities shall be appropriately screened and maintained using the same material from which the principal use is constructed. (1981 Code, § 11.703, as amended by Ord. #1999-7, Aug. 1999, Ord. #2005-11, June 2005, and Ord. #2014-16, Nov. 2014)

**14-704. "O" Office District.** The "O" (Office/Commercial) District shall be a district allowing the location of offices providing basic services and limited commercial uses for the citizens of Millington. Within the areas designated "O" (Office/Commercial) on the Zoning Map of the City of Millington the following provisions shall apply.

(1) Uses permitted. (a) Retail sales, limited as a secondary use to permitted uses in § 14-704(1)(b) below.

- (i) Retail Trade - eating and drinking
- (ii) Retail Trade - other retail trade including only:
  - (A) Drug and proprietary
  - (B) Book and stationery
  - (C) Other Retail trade, NEC<sup>1</sup>

(b) Services, limited to:

- (i) Finance, insurance and retail estate services.
- (ii) Personal services.
- (iii) Business services, including only:
  - (A) Advertising service.
  - (B) Consumer and mercantile credit reporting services, adjustment and collection services.
  - (C) Duplicating, mailing and stenographic services.
  - (D) News syndicate services.
  - (E) Employment services.
- (iv) Professional services.
- (v) Contract construction services - offices only.
- (vi) Governmental services; excluding correctional institutions and military bases and reservations.
- (vii) Educational services.
- (viii) Miscellaneous services.

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<sup>1</sup>Not elsewhere coded.

(c) Signs as permitted in § 14-1202.

(2) Special exceptions. No uses are permitted on approval by the board of zoning appeals.

(3) Uses prohibited. Any use not specifically permitted by the zoning ordinance.

(4) Minimum lot area.

All uses

No minimum providing all yards, density, and parking requirements are met.

(5) Minimum lot width at the building line.

All uses

No minimum providing all yard, density, and parking requirements are met.

(6) Minimum depth of front yards.

All uses

Fifty (50) feet\*

(7) Minimum width of side yards.

All uses

None, provided that when the "O" (Office/Commercial) lot adjoins a residential district along the side yard, the minimum side yard shall be the side yard requirement for the adjoining residential district plus fifteen (15) feet.\*

In the instance where common or adjoining wall construction is not utilized, a minimum distance of ten (10) feet shall be provided between structures.

Structures not constructed at the side line shall be located at least ten (10) feet from the side lot line.

(8) Minimum depth of rear yard.

All uses

Twenty (20) feet, provided that when the "O"(Office/Commercial) lot adjoins a residential district along the rear lot line that the minimum depth of the rear yard shall be twenty-five (25) feet\*

(9) Landscaping. \* The first ten (10) feet of any required yard shall be devoted to landscaping. This provision shall not apply to required rear yards except when the rear yard adjoins a residential district.

(10) Maximum lot coverage by all buildings.

All uses None, provided all area, yard, and parking requirements are met

(11) Maximum number of principal buildings.

All uses None providing the provisions of § 14-704(4) through § 14-704(10) are met.

(12) Maximum height. (a) No structure shall exceed three (3) stories or thirty-five (35) feet in height except as set forth below:

This limitation shall not apply to belfries, chimneys, church spires, flagpoles, radio and television antennas, and water tanks, or stand pipes provided they comply with the provisions of all pertinent codes and ordinances and provided that they are located a distance equal to their height plus ten (10) feet from the nearest property line.

In instances where the following criteria are met the maximum height of fifty (50) feet shall be allowed.

(i) The proposal shall receive certification that adequate fire protection measures are designed into the development as reviewed by the Millington Building Department and the Millington Fire Chief.

(ii) An allowable fire flow is assured and all necessary water line sizes, and proximity to fire hydrants is certified as adequate by the Millington Building Department and the Millington Fire Chief.

(iii) The proposal is located adjacent to an arterial or collector status street to ensure adequate accessibility of emergency vehicles.

(b) All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.

(c) No accessory building shall exceed twenty (20) feet in height.

(13) Accessory building. Accessory buildings shall conform to the following standards:

(a) No accessory building shall extend beyond the required front yard or the front line of the principal building.

(b) No accessory building shall extend into the required side yard.

(c) Accessory buildings may extend into the rear yard but shall be located a distance from the rear property line equal to the height of the structure.

(d) Accessory buildings shall not cover more than thirty (30) percent of the required rear yard.

(14) Site plan and design review. Prior to the issuance of a building permit all site plan and design review requirements as set forth

in § 14-1201 shall be submitted for review by the planning commission. If approved, any modification required by the planning commission shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files for the City of Millington.

(15) Enclosure requirements. All uses shall be conducted within completely enclosed buildings except for parking, loading and other accessory uses which by their nature must exist outside a building.

(16) Exterior storage. Exterior storage of goods or materials of any kind is prohibited. The placement of waste disposal facilities is permitted in rear yards only, and such facilities shall be appropriately screened and maintained using the same material from which the principal use is constructed.

(17) Prohibition of towers for commercial mobile communications services in "O" office districts. No tower for use by or in connection with commercial mobile communications services shall be permitted in O office districts, either by right or under a special exception. (1981 Code, § 11.704, as amended by Ord. #1997-17, Feb. 1998)

## CHAPTER 8

### INDUSTRIAL DISTRICT PROVISIONS

#### SECTION

- 14-801. M-1 Light Industrial District.
- 14-802. M-2 General Industrial District.
- 14-803. M-3 Restricted Industrial District.
- 14-804. M-P Planned Industrial District.

14-801. M-1 Light Industrial District. The M-1 (Light Industrial) District is so designed as to allow for wholesale, warehousing and industrial uses which, by their nature of production and storage, are not considered detrimental to any surrounding districts. As such, all operations and storage must be carried on in an enclosed building and the processing of raw materials for shipment in bulk shall not be permitted. Within the areas designated M-1 (Light Industrial) on the Zoning Map of the City of Millington, Tennessee, the following provisions shall apply.

(1) Chart one permitted uses.

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	IM-3	MT
<b>RESIDENTIAL AND AGRICULTURAL</b>																			
Forestry and Agricultural	P																		
Agricultural and agricultural related activities, excluding stockyards and live animal sales																P			
Single family dwellings	P	P	P	P	P	P	P	P											
Two-family dwellings																			
Townhouse dwellings																			
Multi-family dwellings																			
Single family mobile homes and mobile home parks																			
Single family mobile homes and mobile home parks not to exceed 30 lots																			
Public Uses, Parks and Public Buildings and services	P	P	P	P	P	P	P	P											
Roadside stands, offering for sale products produced on the premises	P																		
Public Utilities	P																		
Public Utilities, except for temporary signs	P																		
Accessory Buildings	P	P	P	P	P	P	P	P											
Public and Private Schools	A	A	A	A	A	A	A	A											
Business and Professional Offices																			
Business and Professional Offices related to a Business or Professional Office																			
Cemeteries	A																		
Private Clubs excluding firearms	A																		
Riding stables, veterinarian hospitals or clinic, large animals, or the keeping of large animals	A																		
Greenhouses or similar storage facilities	A																		
Hospitals and institutions of an educational, religious, charitable or philanthropic nature	A																		
Country Clubs	A	A	A	A	A	A	A	A											
Golf Courses or Country Clubs	A	A	A	A	A	A	A	A											
Day care centers																			
Assisted Living Facilities																			
Nursing Homes																			
<b>NON RESIDENTIAL USES</b>																			
Auto and Service Washing																			
Solid Waste Transfer Station																			
Dry cleaning pickup and delivery services																			
Beauty and Barber services																			
Shoe repair																			

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P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by rezoning. Special Exception and requires site plan approval

CHART ONE, PERMITTED USES

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT
Apparel repair and alterations											\$	\$	\$						
Bank											\$	\$	\$	\$					
Kindergartens and child care homes											\$	\$	\$	\$					
Retail trade, including:																			
Building materials, hardware and farm equipment											\$			\$					
General merchandise																			
Food and groceries																			
Automotive, marine craft, aircraft and accessories, excluding auto junk yards											\$	\$	\$	\$	\$	\$	\$		
Automotive, marine craft, aircraft and accessories, limited to tires, batteries and accessories, and Gasoline service stations											\$	\$	\$	\$	\$	\$	\$		
Apparel and accessories											\$	\$	\$						
Furniture, home furnishings and equipment																			
Eating and drinking											\$	\$	\$	\$	\$	\$	\$		
Other retail trade											\$	\$	\$	\$					
Other retail trade limited to Drug and proprietary, book and stationary											\$	\$	\$	\$					
Services, including:																			
Offices											\$	\$	\$	\$	\$	\$	\$		
Personal services											\$	\$	\$	\$	\$	\$	\$		
Business services											\$	\$	\$	\$	\$	\$	\$		
Businesses services limited to: Dwelling and other building services; Research development and testing; Equipment renting and leasing; Automotive and truck renting; and Electronic configuration and/or services											\$	\$	\$	\$	\$	\$	\$		
Funeral Home											\$	\$	\$	\$	\$	\$	\$		
Personal storage, limited											\$	\$	\$	\$	\$	\$	\$		
Repair services excluding tire recapping services											\$	\$	\$	\$	\$	\$	\$		
Automobile repair and wash services											\$	\$	\$	\$	\$	\$	\$		
Electrical and electronic devices											\$	\$	\$	\$	\$	\$	\$		
Professional services											\$	\$	\$	\$	\$	\$	\$		
Professional services limited to: medical laboratories; dental laboratory and other medical and health services											\$	\$	\$	\$	\$	\$	\$		
Contract construction services											\$	\$	\$	\$	\$	\$	\$		
Contract construction services office											\$	\$	\$	\$	\$	\$	\$		
Educational services											\$	\$	\$	\$	\$	\$	\$		
Veterinary Hospital or Clinic, Small Animal											\$	\$	\$	\$	\$	\$	\$		

P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by BZA as a Special Exception and requires a Site Plan approval

CHART ONE, PERMITTED USES

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT
Miscellaneous services												S							
Mini Storage												A	A						
Amusements												S				P			
Recreational activities												S	S						
Transient Lodging: Motels, Hotels and Tourist Courts												S	S						
Public Assembly												S							
Taxicab business, storage and garage												S	S						
Sexually oriented businesses												S							
Cultural Entertainments and Recreation												S							
Motion picture theatres												S	S						
Recreational activities limited to sports, recreational centers, gymnasiums and athletic clubs												S							
<b>Manufacturing, including</b>																			
Apparel and other products made from fabrics, leather and similar products, excludes leather tanning and finishing																			
Food, beverage and kindred products																			
Furniture and fixtures																			
Printing, publishing and allied industries																			
Paper and allied products, limited to paperboard containers and boxes																			
Drug manufacturing																			
Fabricated metal products, excluding stamping																			
Fabricated metal products																			
Textile mill products																			
Rubber and miscellaneous plastic products																			
Professional, scientific and controlling instruments; electronic configuration and repair; Photographic and optical goods; and watches and clocks manufacturing																			
Lumber and wood products																			
Chemical and allied products limited to Drugs, soap, detergents and cleaning preparations																			
Chemical and allied products																			
Stone, Clay and glass products																			
Petroleum refining and related industries																			
Primary metal limited to rolling, drawing and extruding of ferrous and non-ferrous metals																			
Transportation Communication and Utilities																			

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P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by BZA as a Special Exception and requires a site plan approval

CHART ONE, PERMITTED USES

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT
Airport and Aviation Related Uses																			
Communication																			
Communication towers	A											A							
Utilities																			
Motor vehicle transportation																			
Other communication																			
Wholesale trade limited to:																			
Motor vehicles and automotive equipment, excluding auto salvage and junkyards																			
Drugs, drug proprietaries and druggists supplies																			
Drugs, chemicals and allied products																			
Dry goods and apparel																			
Farm products excluding live animals																			
Groceries, beverages and related products																			
Electrical and electronic goods																			
Hardware, plumbing, heating equipment and supplies																			
Machinery, equipment and supplies																			
Metals and minerals, excluding petroleum products																			
Office, paper and paper products																			
Lumber and construction materials																			
Other Wholesale not listed, excluding: Metals, plastic and minerals; Petroleum bulk stations and terminals; Scrap and waste metals; and Livestock or live animals																			
Other Wholesale trade limited to petroleum bulk stations and terminals and wholesale scrap and waste materials																			
Warehousing and Storage services excluding stockyards																			
<b>OTHER</b>																			
Signs as permitted in Section 14-202	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
United States Government uses at the sole discretion and pleasure of the military authority in charge																			
Planned Residential District			S	S	S	S	S												
Mixed Use Planned Developments			S	S	S	S	S												

P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by BZA as a Special Exception and requires a site plan approval



(2) Chart two district and use bulk regulations.

Chart 2 - District and Use Bulk Regulations Revised 7/3/15	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Requirements		
	Lot Area (Square feet)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)	Height (Feet)	Units per Acre	(%) Lot Coverage
<b>A Agricultural District</b>								
Single Family Detached Dwelling	20,000 *	100	40	15	25 **	35	2.18	0
Agriculture	One acre	100	40	25	25 **	45	n/a	0
Other	One acre	100	40	25	25 **	45	n/a	0
<b>R-0 Residential District</b>								
Single Family Detached Dwelling	15,400	110	35	10	30	35	2.83	30
Public Uses	20,000	110	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25
Churches	3 acres	200	40	20	40	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	40	20	40	35	n/a	25
<b>R-1 Residential District</b>								
Single Family Detached Dwelling	6,500	80	30	10	30	35	6.7	30
Public Uses	20,000	100	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25
Churches	3 acres	200	40	20	40	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	40	20	40	35	n/a	25
<b>R-2 Residential District</b>								
Single Family Detached Dwelling	6,500	65	25	8	25	35	6.7	30
Public Uses	20,000	100	35	35	35	35	n/a	25
Schools, public private and parochial	5 acres ***	300	35	35	35	35	n/a	25
Churches	3 acres	200	35	35	35	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	35	35	35	35	n/a	25
<b>R-3 Residential District</b>								
Single Family Detached Dwelling	6,500	65	25	8	25	35	6.7	30
Two family dwellings	10,000	80	25	10	25	35	4.36	30
Public Uses	20,000	100	<del>15</del> 35	15	35	35	n/a	25
Schools, public private and parochial	5 acres ***	300	<del>15</del> 35	15	35	35	n/a	25
Churches	2 acres	200	<del>15</del> 35	15	35	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	<del>15</del> 35	15	35	35	n/a	25
Day Care Centers			<del>15</del> 35	15	35	35	n/a	25
Assisted Living Facilities			<del>15</del> 35	15	35	35	n/a	25
Nursing Homes			<del>15</del> 35	15	35	35	n/a	25
<b>R-4 Residential District</b>								
Single Family Detached Dwelling	6,500	65	25	8	25	35	6.7	30
Two family dwellings	10,000	80	25	10	25	35	4.36	30
Townhouse dwellings	11,500 #	100	25	10/15 ###	25	35	12.82	25
Multi-family dwellings	11,500 #	100 ##	25	10/15 ###	35	35	12.82	25
Public Uses	20,000	100	35	15	35	35	n/a	25
Schools, public private and parochial	5 acres ***	300	35	15	35	35	n/a	25
Churches	2 acres	200	35	15	35	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	35	15	35	35	n/a	25
Day Care Centers			35	15	35	35	n/a	25
Assisted Living Facilities			35	15	35	35	n/a	25
Nursing Homes			35	15	35	35	n/a	25
<b>R-5 Residential Mobile Home Park</b>								
Entire development	8 acres		50	30	30	35	n/a	
Single family mobile homes and recreational vehicles	4,500 per unit		25	10	15	35	n/a	n/a
Office			50	30	30	35	n/a	n/a
<b>R-LL Residential District</b>								
Single Family Detached Dwelling	2 acres	175	35	15	30	35	0.5	30
Public Uses	2 acres	175	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25
Churches	3 acres	200	40	20	40	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	40	20	40	35	n/a	25
<b>B-1 Neighborhood Commercial</b>								
Permitted commercial and office uses	0	0	30	10/20 ^	30	35	n/a	25
Public uses	20,000	100	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25

Chart 2 Page 1

Chart 2 - District and Use Bulk Regulations Revised 7/3/15	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Requirements		
	Lot Area (Square feet)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)	Height (Feet)	Units per Acre	(%) Lot Coverage
Churches	2 acres	200	40	20	40	35	n/a	25
B-2 General Commercial	0	0	50	10/0^^	20/25 ^^^	35		45
<b>P-C Planned Commercial</b>								
Entire Development	5 acres	100'	n/a	n/a	n/a	n/a	n/a	n/a
Individual permitted uses	0	0	50	25	25	35	n/a	0
O Office	0	0	50	10/0 +	20/25 ^^^	35		0
M-1 Light Industrial	0	0	40	20/40 ++	20/40 ^^	50	n/a	50
M-2 General Industrial	0	0	50	25/40 +++	25/40 +++	50	n/a	65
<b>M-P Planned Industrial</b>	<b>0</b>	<b>0</b>	<b>50</b>	<b>25/40 +++</b>	<b>25/40 +++</b>	<b>50</b>	<b>N/A</b>	<b>65</b>
M-3 Restricted Industrial	0	0	50	50/100	50/100	50	n/a	35
M-T Military Zone	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
<b>Veterans Parkway Corridor Overlay</b>								
R-4 Residential (townhouse only)	11,500 #	100	0	10/15 ###	25		12.82	25
B-1 Neighborhood Commercial	0	0	0	10/20 ^	30	35	n/a	25
B-2 General Commercial	0	0	10	10/0^^	20/25 ^^^	35		45
P-C Planned Commercial (individual permitted uses)	0	0	10	25	25	35	n/a	0
O Office	0	0	10	10/0 +	20/25 ^^^	35		0
M-1 Light Industrial	0	0	20	20/40 ++	20/40 ^^	50	n/a	50
<b>M-P Planned Industrial</b>	<b>0</b>	<b>0</b>	<b>30</b>	<b>25/40 +++</b>	<b>25/40 +++</b>	<b>50</b>	<b>n/a</b>	<b>65</b>

- \* Where no public sewer is provided the lot size shall be increased to meet Health Department regulations.
- \*\* Not less than 30' or 20% of the lot depth, whichever is smaller, provided in no case shall it be less than 25'.
- \*\*\* 5 acres plus one acre for each one-hundred or fraction of one-hundred students over one-hundred.
- # 11,500 square feet (sq. ft.) for the first unit, plus 2,500 sq. ft. for each additional unit.
- ## 100' for the development and each townhouse lot shall have 20' for frontage.
- ### 10' on end or internal units and 15 where it borders an adjacent property.
- ^^ 10' where it is adjacent to commercial and 20' where it is adjacent to residential.
- ^^ 10', provided the Planning Commission may allow a 0' side yard in the case of common wall buildings. Where these uses are adjacent to residential the side yard shall be the greater of 10' or the side yard in the adjacent residential zoning.
- ^^^ The rear yard is 20' adjacent to commercial and 25' adjacent to residential.
- + 10', provided the Planning Commission may allow a 0' side yard in the case of common wall buildings. Where the use is adjacent to residential, the side yard shall be the same as the adjacent residential zoning plus 15'.
- ++ 20' where it is adjacent to commercial non-residential and 40' where it is adjacent to residential.
- +++ 25' where it is adjacent to commercial non-residential and 40' where it is adjacent to residential.

(3) Maximum number of principal buildings.

All uses

None, providing the provisions of §§ 14-801(4) through 14-801(10) are met.

(4) Accessory buildings. Accessory buildings shall conform to the following standards:

(a) No accessory building shall extend beyond the required front yard or front line of the principal building.

(b) No accessory building shall extend into the required side or rear yard.

(5) Landscaping. The first ten (10) feet of any required yard shall be devoted to landscaping. This provision shall not apply to required rear yards except when the rear yard adjoins a residential district. Landscape adjacent to residential uses shall consist of a combination of evergreen and deciduous shrubs and trees to form a nearly visually opaque screen. No parking shall be allowed in the required landscape area.

(6) Construction. No building shall be constructed with wood framing. Exterior walls visible from the street shall be finished with architectural tilt-up concrete wall, face brick, finished or patterned concrete block, exterior insulated finish system, glass, insulated metal sandwich panel, stone or stucco. Equivalent or better materials allowed subject to review of the Millington Planning Commission and the Millington Building Department.

(7) Site plan review. Prior to the issuance of a building permit, all site plan requirements, as set forth in § 14-1201 shall be submitted for review by the planning commission. If approved, any modifications required by the planning commission shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the City of Millington. (1981 Code, § 11.801, as amended by Ord. #1997-2, May 1997; Ord. #1997-17, Feb. 1998; replaced by Ord. #2000-20, Sept. 2000; and amended by Ord. #2005-11, June 2005, Ord. #2015-14, Sept. 2014, and Ord. #2018-12, Aug. 2018)

**14-802. M-2 General Industrial District.** The M-2 (General Industrial) District is designed to allow a broad range of industrial uses complemented by other uses such as wholesale trade and limited retail trade and services within the City of Millington. This district is established to encourage a high quality of industrial development in planned industrial parks and on individual parcels. This district is not intended to allow uses that may be considered hazardous because of the use of toxic or highly flammable materials. Within the areas designated M-2, minimum performance standards are established for uses which produce smoke, dust, noise, odor or vibrations. Within the areas designated M-2 (General Industrial) on the Zoning Map of Millington, Tennessee, the following provisions shall apply:

- (1) Uses permitted.
  - (a) Agricultural and agricultural related activities, excluding stockyards and live animals.
  - (b) Business services -- limited to:
    - (i) Dwelling and other building services.
    - (ii) Warehousing and storage services -- excluding stockyards.
    - (iii) Other business services -- limited to:
      - (A) Research, development and testing services.
      - (B) Equipment rental and leasing services.
      - (C) Automobile and truck rental services.
      - (D) Electronic configuration and/or repair services.
  - (c) Communication.
  - (d) Contract construction services.
  - (e) Governmental buildings and services.
  - (f) Manufacturing -- including:
    - (i) Apparel and other finished products made from fabrics, leather and similar materials except for leather tanning and finishing processes.
    - (ii) Chemical and allied products, limited to:
      - (A) Drug manufacturing.
      - (B) Soap, detergents and cleaning preparations, perfume, cosmetics and other toilet preparations.
    - (iii) Fabricated metal products.
    - (iv) Food, beverage and kindred products.
    - (v) Furniture and fixtures.
    - (vi) Lumber and wood products.
    - (vii) Paper and allied products, limited to:  
Paperboard containers and boxes.
    - (viii) Professional, scientific and controlling instruments, electronic devices, photographic and optical goods, watches and clocks.
    - (ix) Rubber and miscellaneous plastic products.
    - (x) Textile mill products.
  - (g) Motor vehicle transportation.
  - (h) Offices.
  - (i) Parks and recreation facilities.
  - (j) Printing, publishing and allied industries.
  - (k) Professional services - limited to:
    - (i) Medical/dental related services.
    - (ii) Research laboratories.
  - (l) Repair services, limited to:
    - (i) Automobile repair and services.
    - (ii) Electrical and electronic devices.

- (m) Retail trade - limited to:
  - (i) Automobile services stations.
  - (ii) Eating and drinking establishments.
  - (iii) Hotels and motels.
- (n) Schools, business and professional.
- (o) Signs as permitted in § 14-202.
- (p) Transportation, communication and utilities, NEC.
  - (i) Utilities.
- (q) Wholesale trade including:
  - (i) Automotive equipment and motor vehicles - except auto salvage and/or junkyard scrap.
  - (ii) Drugs, chemicals, and allied products.
  - (iii) Dry goods and apparel.
  - (iv) Farm products except for live animals.
  - (v) Groceries, beverages and related products, animals.
  - (vi) Electronic and electrical goods.
  - (vii) Machinery, equipment, and supplies.
  - (viii) Metal and minerals except petroleum products and
  - (ix) Office, paper and paper products.
  - (x) Furniture and home furnishings.
  - (xi) Lumber and construction materials.
- (r) Taxicab business, storage and garage.
- (s) Sexually oriented businesses.

(2) Special exceptions. No uses are permitted on approval of the board of zoning appeals, except that towers for use by or in connection with commercial mobile communications services may be permitted in M-2 Districts upon such approval, subject to applicable provisions of this zoning ordinance.

(3) Uses prohibited. Any use not specifically permitted by the zoning ordinance.

(4) Minimum lot area.

All uses

No minimum providing all yard, density, and parking requirements are met.

(5) Minimum lot width at the building line.

All uses

No minimum providing all yard, density, and parking requirements are met.

(6) Minimum depth of front yard.

All uses

Fifty (50) feet.

(7) Minimum width of side yards.

All uses

Twenty-five (25) feet provided that when the M-2 (General Industrial) lot adjoins a residential

district at the side yard, the minimum side yard shall be forty (40) feet.

(8) Minimum depth of rear yard.

All uses

Twenty-five (25) feet provided that when the M-2 (General Industrial) lot adjoins a residential district along the rear yard, the minimum rear yard shall be forty-five (45) feet.

(9) Maximum lot coverage of buildings.

All uses

Sixty-five (65) percent.

(10) Maximum number of principal buildings.

All uses

None, providing the provisions of §§ 14-802(4) through 14-802(10) are met.

(11) Maximum height. (a) No structures shall exceed a maximum of fifty (50) feet in height except as set forth below. This limitation shall not apply to belfries, chimneys, flagpoles, radio and television antennas, and water tanks or stand pipes, provided they comply with the provisions of all pertinent codes and ordinances and provided that they are located a distance equal to their height plus (10) feet from the nearest property line.

(b) All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.

(12) Accessory buildings. Accessory building shall conform to the following standards:

(a) No accessory building shall extend beyond the required front yard or the front line of the principal building.

(b) No accessory building shall extend into the required side or rear yard.

(13) Material storage. All raw material, equipment and products shall be stored in completely enclosed buildings or shall otherwise be screened by such walls, fences and landscaping to attractively conceal areas visible from outside of the lot boundaries.

(14) Landscaping. The first twenty (20) feet of any required front yard shall be devoted to landscaping with no parking within the landscape area. Landscape area equal to ten percent (10%) of the gross parking area shall be provided in and adjacent to the parking lot and shall include not less than one (1) tree for each twenty (20) parking spaces or fraction thereof.

(15) Construction. No building shall be constructed with wood framing. Exterior walls visible from the street shall be finished with architectural tilt-up concrete wall, face brick, finished or patterned concrete block, exterior insulated finish system, glass, insulated metal sandwich panel, stone or stucco. Equivalent or better materials allowed subject to review of the Millington Planning Commission and the Millington Building Department. Aircraft hangar buildings located at the Millington Municipal Airport may be constructed entirely of metal panels.

(16) Site plan review. Prior to the issuance of a building permit all site plan requirements as set forth in § 14-1201 shall be submitted for review by the planning commission. If approved, any modifications required by the planning commission shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the City of Millington.

(17) Performance standards. All of the following minimum standards must be complied with:

(a) Fire and explosion hazard. All activities shall be carried on only in structures that conform to the standards of the national Board of Fire Underwriters concerning the plant operation and storage of explosive raw materials, fuels, liquids and finished products.

(b) Radioactivity. All activities located within this zone shall comply with title 10; chapter 1, part 20, Code of Federal Regulations, "Standards for Protection Against Radiation."

(c) Smoke, fumes, gases, dust, odors. There shall be no excessive emission of any smoke, fumes, gas, dust or odors. These and any other atmospheric pollutant that is detectable to the human senses at the boundaries of the lot occupied by such use is prohibited. In any case, the limit of such emission of air pollutants shall be subject to the approval or acceptance of the Millington Industrial Board, and Millington Fire Department, and the State Air and Water Quality Control Department.

(d) Vibration. There shall be no vibration that is discernible to the human sense of feeling beyond the immediate site on which such use is conducted.

(e) Noise. There shall be no operational industrial noise measured from any point on the property line of the lot on which the industrial operation is located which shall exceed the values given in the following table in any octave band of frequency.

Frequency Band in Cycles Per Second	Sound Pressure Level Decibels
0-75	65
75- 150	50
150-300	44

300-600	38
600- 1200	35
1200 - 2400	32
2400 - 4800	29
above 4800	26

(1981 Code, § 11.802, as amended by Ord. #1997 -17, Feb. 1998; replaced by Ord. #2000-20, Sept. 2000, and amended by Ord. #2003-21, July 2003; Ord. #2005-11, June 2005; and Ord. #2005-20, Aug. 2005)

**14-803. M-P Planned Industrial District.** The purpose of this district is to provide for planned industrial development, consisting of several buildings or groups of buildings of harmonious design, in which the principal uses are manufacturing, assembling, fabrication, warehousing and other uses that are customary to the development of high quality industrial areas. A planned district of this type, which is accessible to major transportation routes, is intended to group industrial activities on desirable parcels with carefully arranged traffic systems, parking and loading facilities, and landscaping. This careful design will minimize any possible adverse effects on surrounding districts.

(1) Uses permitted. The uses permitted in this district are provided in chart one, permitted uses in § 14-801.

(2) Setbacks, heights and other bulk regulations. The building setbacks, heights and other bulk regulation for the development of these sites are provided in chart two, district and use bulk regulations in § 14-801. All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.

(3) Accessory buildings. Accessory building shall conform to the following standards:

(a) No accessory building shall extend beyond the required front yard or the front line of the principal building.

(b) No accessory building shall extend into the required side or rear yard.

(4) Material storage. All raw material, equipment and products shall be stored in completely enclosed buildings or shall otherwise be screened by such walls, fences and landscaping to attractively conceal areas visible from outside of the lot boundaries.

(5) Landscaping. The location, size, and type of development will determine the type and amount of screening and landscaping.

The following are minimum requirements. The Planning Commission may require other amenities:



(a) Where a planned industrial park abuts a residential district there shall be a landscape buffer of at least thirty (30) feet, with a solid fence six (6) feet high, provided and maintained by the owner. Landscaping shall not be located in the utility easements.

(b) A landscape area not less than twenty (20) feet wide shall be required along all street frontages. This area shall be parallel to and inside the property lines.

(c) A landscape area equal to ten percent (10%) of the gross parking area shall be provided in and adjacent to the parking lot and shall include not less than one (1) tree for each twenty (20) parking spaces or fraction thereof.

(d) Once an area has been designated as a greenbelt, landscaped area, or some other permanent open space, it shall not be encroached upon by any structure or building.

(6) Construction. No permanent building shall be constructed with wood framing. Temporary buildings and construction trailers may be constructed with wood framing. Exterior walls visible from the street shall be finished with architectural tilt-up concrete wall, face brick, finished or patterned concrete block, exterior insulated finish system, glass, insulated metal sandwich panel, stone or stucco. Equivalent or better materials allowed subject to review of the Millington Planning Commission and the Millington Building Department. Aircraft hangar buildings located at the Millington Municipal Airport may be constructed entirely of metal panels.

(7) Site plan review. Prior to the issuance of a building permit all site plan requirements as set forth in § 14-1201 shall be submitted for review by the planning commission. If approved, any modifications required by the planning commission shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the City of Millington.

(8) Performance standards. All of the following minimum standards must be complied with:

(a) Fire and explosion hazard. All activities shall be carried on only in structures that conform to the standards of the National Board of Fire Underwriters concerning the plant operation and storage of explosive raw materials, fuels, liquids and finished products.

(b) Radioactivity. All activities located within this zone shall comply with title 10; chapter 1, part 20, Code of Federal Regulations, "Standards for Protection against Radiation."

(c) Smoke, fumes, gases, dust, odors. There shall be no excessive emission of any smoke, fumes, gas, dust or odors. These and any other atmospheric pollutant that is detectable to the human senses at the boundaries of the lot occupied by such use is prohibited. In any case, the limit of such emission of air pollutants shall be subject to the approval or acceptance of the Millington Industrial Board, and Millington Fire Department, and the state air and water quality control department.

(d) Vibration. There shall be no vibration that is discernible to the human sense of feeling beyond the immediate site on which such use is conducted.

(e) Noise. There shall be no operational industrial noise measured from any point on the property line of the lot on which the industrial operation is located which shall exceed the values given in the following table in any octave band of frequency. These noise levels do not apply to the Millington Regional Jetport, which are covered separately under FAA rules and regulations.

Frequency Band in Cycles Per Second	Sound Pressure Level Decibels
0-75	65
75- 150	50
150-300	44
300-600	38
600- 1200	35
1200 - 2400	32
2400 - 4800	29
above 4800	26

(as added by Ord. #2015-16, Sept. 2015)

**14-804. M-3 Restricted Industrial District.** The M-3 (Restricted Industrial) District shall be utilized to place those industrial uses understood to be of a hazardous or obnoxious nature but which are deemed necessary or desirable for the economic development of the City of Millington. Because of the nature and intent of this district, these regulations shall limit the permitted use categories. Within areas designated M-3 (Restricted Industrial) on the Zoning Map of the City of Millington, Tennessee, the following provisions shall apply:

- (1) Uses permitted. (a) Governmental services.
- (b) Manufacturing--limited to:
  - (i) Chemical and allied products - manufacturing.
  - (ii) Stone, clay and glass products - manufacturing.
- (c) Park and recreational facilities.
- (d) Petroleum refining and related industries.
- (e) Primary metal industries- limited to rolling, drawing and extruding of ferrous and non-ferrous metals.
- (f) Signs as permitted in § 14-202.
- (g) Utilities.

- (h) Wholesale trade limited to:
  - (i) Other wholesale trade, NEC
    - (A) Petroleum bulk stations and terminals wholesale.
    - (B) Scrap and waste materials - wholesale.
- (2) Special exceptions. No uses are permitted on approval of the board of zoning appeals, except that towers for commercial mobile communications services may be permitted in M-3 Districts upon such approval, subject to applicable provisions of this zoning ordinance.
- (3) Uses prohibited. Any use not specifically permitted by the zoning ordinance is prohibited.
- (4) Minimum lot area.
  - All uses No minimum providing all yard, density, and parking requirements are met.
- (5) Minimum lot width at the building line.
  - All uses No minimum providing all yard, density, and parking requirements are met.
- (6) Minimum depth of front yards.
  - All uses Fifty (50) feet.
- (7) Minimum width of side yards.
  - All uses Fifty (50) feet provided that when the M-3 (Restricted Industrial) lot adjoins a residential district along the side yard. The minimum side yard shall be one hundred (100) feet.
- (8) Minimum depth of rear yard.
  - All uses Fifty (50) feet provided that when the M-3 (Restricted Industrial) lots adjoins a residential district along the rear yard, the minimum rear yard shall be one hundred (100) feet.
- (9) Maximum lot coverage of all buildings.
  - All uses Thirty-five (35) percent.
- (10) Maximum number of principal buildings.
  - All uses None providing the provisions of §§ 14-803(4)

through 14-803(10) are met.

(11) Maximum height. (a) No structures shall exceed a maximum of fifty (50) feet in height except as set forth below. This limitation shall not apply to belfries, chimneys, flagpoles, radio and television antennas, and water tanks or stand pipes, provided they comply with the provisions of all pertinent codes and ordinances and provided that they are located a distance equal to their height plus (10) feet from the nearest property line.

(b) All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.

(12) Accessory buildings. Accessory building shall conform to the following standards:

(a) No accessory building shall extend beyond the required front yard or the front line of the principal building.

(b) No accessory building shall extend into the required side or rear yard.

(13) Construction. No building shall be constructed with wood framing. Exterior walls visible from the street shall be finished with architectural tilt-up concrete wall, face brick, finished or patterned concrete block, exterior insulated finish system, glass, insulated metal sandwich panel, stone or stucco. Equivalent or better materials allowed subject to review of the Millington Planning Commission and the Millington Building Department.

(14) Landscaping. The first twenty (20) feet of any required yard shall be devoted to landscaping. This provision shall not apply to required rear yards except when the rear yard adjoins a residential district. No parking shall be allowed in the required landscape area.

(15) Site plan review. Prior to the issuance of a building permit all site plan requirements as set forth in § 14-1201 shall be submitted for review by the planning commission. If approved, any modifications are required by the planning commission shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the City of Millington. (1981 Code, § 11.803, as amended by Ord. #1997-17, Feb.1998; and replaced by Ord. #2000-20, Sept. 2000, as renumbered by Ord. #2015-16, Sept. 2015)

**CHAPTER 9****MILITARY ZONE PROVISIONS****SECTION**

14-901. MT Military District.

14-902. MTO -- Military district overlay.

14-903. Chart one -- permitted uses.

14-904. Chart two -- district and bulk regulations.

**14-901. MT - Military District.** Within the areas designated MT (Military) on the Zoning Map of the City of Millington, Tennessee, so long as the Military District is under the exclusive control of the United States Government and its branches, the uses permitted and any regulation thereof, in such district shall be at the sole discretion and pleasure of the military authority in charge. (1981 Code, § 11.901)

**14-902. MTO - Military District Overlay.** (1) Creation of overlay district. There is hereby created the MTO -Military Overlay District within the City of Millington. The MTO-Military Overlay District includes all areas leased to the United States Government and its branches and represents an overlay zoning of the underlying zoning district for military use.

(2) Use and regulation. The activities uses permitted and regulation of such activities within any MTO-Military Overlay District shall be the responsibility of the military authority in charge of such areas under the applicable lease.

(3) Compliance with city code and regulations. Any construction in an MTO-Military Overlay District shall comply with the underlying zoning for the district, city subdivision regulations and building requirements. (as added by Ord. #2000-09, June 2000)

**14-903. Chart one -- permitted uses.**

(as added by Ord. #2015-14, Sept. 2015 and replaced by Ord. #2018-12, Aug. 2018)

See next page

CHART ONE, PERMITTED USES

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT
<b>RESIDENTIAL AND AGRICULTURAL</b>																			
Forestry and Agricultural activities, excluding stockyards and live animals	P															P			
Single family dwellings	P	P	P	P	P	P		P											
Two-family dwellings					S	S													
Townhouse dwellings						S													
Multi-family Dwellings						S													
Single family mobile homes and mobile home park offices							S												
Recreational vehicles in mobile home parks not to exceed 30 days							S												
Public Uses, Parks and Public Buildings and services	P	P	P	P	P	P		P				P	P						
Roadside stands, offering for sale products produced on the premises	P																		
Public Bulletin board or Temporary Signs	P																		
Public Utilities	P																		
Customary home occupations	P	P	P	P	P	P		P											
Accessory Buildings	P	P	P	P	P	P		P							P	S	S		
Public and Private Schools	A	A	A	A	A	A		A				A	A						
Business and Professional Schools															S	S	S		
Dormitories and other lodging related to a Business or Professional School																			
Cemeteries	A																		
Private Clubs excluding firearms	A																		
Riding stables, veterinarian hospitals or clinics, large animals, or the keeping of small animals	A																		
Grain elevators or similar storage facilities	A																		
Hospitals and institutions of an educational, religious, charitable or philanthropic nature	A												S						
Churches and other places of worship	A	A	A	A	A	A		A				A	A						
Golf Courses or Country Clubs		A	A	A	A	A		A											
Day care centers																			
Assisted living facilities																			
Nursing Homes																			
<b>NON RESIDENTIAL USES</b>																			
Personal Services including: Self-service laundry																			
Dry cleaning pickup and delivery services																			
Beauty and Barber services																			
Shoe repair																			

P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by BZA as a Special Exception and requires a Site Plan approval

CHART ONE, PERMITTED USES

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT
Apparel repair and alterations											\$	\$	\$						
Bank											\$	\$	\$	\$					
Kindergartens and child care homes											\$	\$	\$	\$					
Retail trade, including:																			
Building materials, hardware and farm equipment												\$			\$				
General merchandise																			
Food and groceries																			
Automotive, marine craft, aircraft and accessories, excluding auto junk yards															\$	\$	\$		
Automotive, marine craft, aircraft and accessories, limited to tires, batteries and accessories, and Gasoline service stations															\$	\$	\$		
Apparel and accessories																			
Furniture, home furnishings and equipment																			
Eating and drinking											\$	\$	\$	\$	\$	\$	\$		
Other retail trade																			
Other retail trade limited to Drug and proprietary, book and stationary											\$			\$					
Services, including:																			
Offices											\$	\$	\$	\$	\$	\$	\$		
Finance, insurance and real estate											\$	\$	\$	\$	\$	\$	\$		
Personal services											\$	\$	\$	\$	\$	\$	\$		
Business services															\$	\$	\$		
Businesses services limited to: Dwelling and other building services; Research development and testing; Equipment renting and leasing; Automotive and truck renting; and Electronic configuration and/or services																			
Funeral Home												\$							
Personal storage, limited												\$							
Repair services excluding tire recapping services												\$							
Automobile repair and wash services												\$	\$						
Electrical and electronic devices																\$	\$		
Professional services											\$	\$	\$	\$	\$	\$	\$		
Professional services limited to: medical laboratories; dental laboratory and other medical and health services															\$	\$	\$		
Contract construction services											\$	\$			\$	\$	\$		
Contract construction services office											\$	\$			\$	\$	\$		
Educational services											\$	\$			\$	\$	\$		
Veterinary Hospital or Clinic, Small Animal											\$	\$	\$	\$	\$	\$	\$		

P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by BCA as a Special Exception and requires a Site Plan approval

CHART ONE, PERMITTED USES

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT
Miscellaneous services												S							
Mini Storage												A	A						
Amusements												S				P			
Recreational activities												S	S						
Transient Lodging: Motels, Hotels and Tourist Courts												S	S						
Public Assembly												S							
Taxicab business, storage and garage												S	S						
Sexually oriented businesses												S							
Cultural Entertainments and Recreation												S	S						
Motion picture theatres												S	S						
Recreational activities limited to sports, recreational centers, gymnasiums and athletic clubs													S						
Manufacturing, including Apparel and other products made from fabrics, leather and similar products, excludes leather tanning and finishing																			
Food, beverage and kindred products																			
Furniture and fixtures																			
Printing, publishing and allied industries																			
Paper and allied products, limited to paperboard containers and boxes																			
Drug manufacturing																			
Fabricated metal products, excluding stamping																			
Fabricated metal products																			
Textile mill products																			
Rubber and miscellaneous plastic products																			
Professional, scientific and controlling instruments; electronic configuration and repair; Photographic and optical goods; and watches and clocks manufacturing																			
Lumber and wood products																			
Chemical and allied products limited to Drugs, soap, detergents and cleaning preparations																			
Chemical and allied products																			
Stone, Clay and glass products																			
Petroleum refining and related industries																			
Primary metal limited to rolling, drawing and extruding of ferrous and non-ferrous metals																			
Transportation Communication and Utilities																			

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8/16/18

P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by BZA as a Special Exception and requires a site plan approval



CHART ONE, PERMITTED USES

Permitted Uses	A	R-O	R-1	R-2	R-3	R-4	R-5	R-LL	PRD	MUPD	B-1	B-2	P-C	O	M-1	M-2	M-P	M-3	MT
Airport and Aviation Related Uses																			
Communication																			
Communication towers	A											A							
Utilities																			
Motor vehicle transportation																			
Other communication																			
Wholesale trade limited to:																			
Motor vehicles and automotive equipment, excluding auto salvage and junkyards																			
Drugs, drug proprietaries and druggists supplies																			
Drugs, chemicals and allied products																			
Dry goods and apparel																			
Farm products excluding live animals																			
Groceries, beverages and related products																			
Electrical and electronic goods																			
Hardware, plumbing, heating equipment and supplies																			
Machinery, equipment and supplies																			
Metals and minerals, excluding petroleum products																			
Office, paper and paper products																			
Lumber and construction materials																			
Other Wholesale not listed, excluding: Metals, plastic and minerals; Petroleum bulk stations and terminals; Scrap and waste metals; and Livestock or live animals																			
Other Wholesale trade limited to petroleum bulk stations and terminals and wholesale scrap and waste materials																			
Warehousing and Storage services excluding stockyards																			
<b>OTHER</b>																			
Signs as permitted in Section 14-202	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
United States Government uses at the sole discretion and pleasure of the military authority in charge																			
Planned Residential District			S	S	S	S	S												
Mixed Use Planned Developments			S	S	S	S	S												

P Permitted Use  
S Permitted Use, requires site plan approval  
A Use permitted on appeal by BZA as a Special Exception and requires a site plan approval

**14-904. Chart two -- district and bulk regulations.**

Chart 2 - District and Use Bulk Regulations Revised 7/3/15	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Requirements		
	Lot Area (Square feet)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)	Height (Feet)	Units per Acre	(%) Lot Coverage
<b>A Agricultural District</b>								
Single Family Detached Dwelling	20,000 *	100	40	15	25 **	35	2.18	0
Agriculture	One acre	100	40	25	25 **	45	n/a	0
Other	One acre	100	40	25	25 **	45	n/a	0
<b>R-O Residential District</b>								
Single Family Detached Dwelling	15,400	110	35	10	30	35	2.83	30
Public Uses	20,000	110	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25
Churches	3 acres	200	40	20	40	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	40	20	40	35	n/a	25
<b>R-1 Residential District</b>								
Single Family Detached Dwelling	6,500	80	30	10	30	35	6.7	30
Public Uses	20,000	100	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25
Churches	3 acres	200	40	20	40	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	40	20	40	35	n/a	25
<b>R-2 Residential District</b>								
Single Family Detached Dwelling	6,500	65	25	8	25	35	6.7	30
Public Uses	20,000	100	35	35	35	35	n/a	25
Schools, public private and parochial	5 acres ***	300	35	35	35	35	n/a	25
Churches	3 acres	200	35	35	35	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	35	35	35	35	n/a	25
<b>R-3 Residential District</b>								
Single Family Detached Dwelling	6,500	65	25	8	25	35	6.7	30
Two family dwellings	10,000	80	25	10	25	35	4.36	30
Public Uses	20,000	100	<del>15</del> 35	15	35	35	n/a	25
Schools, public private and parochial	5 acres ***	300	<del>15</del> 35	15	35	35	n/a	25
Churches	2 acres	200	<del>15</del> 35	15	35	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	<del>15</del> 35	15	35	35	n/a	25
Day Care Centers			<del>15</del> 35	15	35	35	n/a	25
Assisted Living Facilities			<del>15</del> 35	15	35	35	n/a	25
Nursing Homes			<del>15</del> 35	15	35	35	n/a	25
<b>R-4 Residential District</b>								
Single Family Detached Dwelling	6,500	65	25	8	25	35	6.7	30
Two family dwellings	10,000	80	25	10	25	35	4.36	30
Townhouse dwellings	11,500 #	100	25	10/15 ###	25	35	12.82	25
Multi-family dwellings	11,500 #	100 ##	25	10/15 ###	35	35	12.82	25
Public Uses	20,000	100	35	15	35	35	n/a	25
Schools, public private and parochial	5 acres ***	300	35	15	35	35	n/a	25
Churches	2 acres	200	35	15	35	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	35	15	35	35	n/a	25
Day Care Centers			35	15	35	35	n/a	25
Assisted Living Facilities			35	15	35	35	n/a	25
Nursing Homes			35	15	35	35	n/a	25
<b>R-5 Residential Mobile Home Park</b>								
Entire development	8 acres		50	30	30	35	n/a	
Single family mobile homes and recreational vehicles	4,500 per unit		25	10	15	35	n/a	n/a
Office			50	30	30	35	n/a	n/a
<b>R-LL Residential District</b>								
Single Family Detached Dwelling	2 acres	175	35	15	30	35	0.5	30
Public Uses	2 acres	175	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25
Churches	3 acres	200	40	20	40	35	n/a	25
Golf Courses or Country Clubs	10 acres	200	40	20	40	35	n/a	25
<b>B-1 Neighborhood Commercial</b>								
Permitted commercial and office uses	0	0	30	10/20 ^	30	35	n/a	25
Public uses	20,000	100	40	20	40	35	n/a	25
Schools, public private and parochial	5 acres ***	300	40	20	40	35	n/a	25

Chart 2 Page 1

Chart 2 - District and Use Bulk Regulations Revised 7/3/15	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Requirements		
	Lot Area (Square feet)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)	Height (Feet)	Units per Acre	(%) Lot Coverage
Churches	2 acres	200	40	20	40	35	n/a	25
B-2 General Commercial	0	0	50	10/0^^	20/25 ^^^	35		45
P-C Planned Commercial								
Entire Development	5 acres	100'	n/a	n/a	n/a	n/a	n/a	n/a
Individual permitted uses	0	0	50	25	25	35	n/a	0
O Office	0	0	50	10/0+	20/25 ^^^	35		0
M-1 Light Industrial	0	0	40	20/40++	20/40^^	50	n/a	50
M-2 General Industrial	0	0	50	25/40 +++	25/40 +++	50	n/a	65
M-P Planned Industrial	0	0	50	25/40 +++	25/40 +++	50	N/A	65
M-3 Restricted Industrial	0	0	50	50/100	50/100	50	n/a	35
M-T Military Zone	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Veterans Parkway Corridor Overlay								
R-4 Residential (townhouse only)	11,500 #	100	0	10/15 ###	25		12.82	25
B-1 Neighborhood Commercial	0	0	0	10/20^	30	35	n/a	25
B-2 General Commercial	0	0	10	10/0^^	20/25 ^^^	35		45
P-C Planned Commercial (individual permitted uses)	0	0	10	25	25	35	n/a	0
O Office	0	0	10	10/0+	20/25 ^^^	35		0
M-1 Light Industrial	0	0	20	20/40++	20/40^^	50	n/a	50
M-P Planned Industrial	0	0	30	25/40 +++	25/40 +++	50	n/a	65

\* Where no public sewer is provided the lot size shall be increased to meet Health Department regulations.  
 \*\* Not less than 30' or 20% of the lot depth, whichever is smaller, provided in no case shall it be less than 25'.  
 \*\*\* 5 acres plus one acre for each one-hundred or fraction of one-hundred students over one-hundred.  
 # 11,500 square feet (sq. ft.) for the first unit, plus 2,500 sq. ft. for each additional unit.  
 ## 100' for the development and each townhouse lot shall have 20' for frontage.  
 ### 10' on end or internal units and 15 where it borders an adjacent property.  
 ^ 10' where it is adjacent to commercial and 20' where it is adjacent to residential.  
 ^^ 10', provided the Planning Commission may allow a 0' side yard in the case of common wall buildings. Where these uses are adjacent to residential the side yard shall be the greater of 10' or the side yard in the adjacent residential zoning.  
 ^^ The rear yard is 20' adjacent to commercial and 25' adjacent to residential.  
 + 10', provided the Planning Commission may allow a 0' side yard in the case of common wall buildings. Where the use is adjacent to residential, the side yard shall be the same as the adjacent residential zoning plus 15'.  
 ++ 20' where it is adjacent to commercial non-residential and 40' where it is adjacent to residential.  
 +++ 25' where it is adjacent to commercial non-residential and 40' where it is adjacent to residential.

(as added by Ord. #2015-14, Sept. 2015)

## CHAPTER 10

### FLOOD DAMAGE PREVENTION

#### SECTION

14-1001. Statutory authorization, findings of fact, purpose and objectives.

14-1002. Definitions.

14-1003. General provisions.

14-1004. Administration.

14-1005. Provisions for flood hazard reduction.

14-1006. Variance procedures.

14-1007. Legal provisions.

**14-1001. Statutory authorization, findings of fact, purpose and objectives.** (1) Statutory authorization. The Legislature of the State of Tennessee has in §§ 13-7-201 through 13-7-210, Tennessee Code Annotated, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Millington, Tennessee, Mayor and Board of Alderman, do ordain as follows:

(2) Findings of fact. (a) The City of Millington, Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR). Ch. 1, section 60.3.

(b) Areas of the City of Millington, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this ordinance are: (a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

(f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodprone area;

(h) To maintain eligibility for participation in the NFIP. (1981 Code, § 11.1001, as replaced by Ord. #2007-12, Sept. 2007, and Ord. #2016-14, Aug. 2016)

**14-1002. Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' - 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(5) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard" see "special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(8) "Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

(9) "Building" see "structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer

amount of insurance on all insurable structures before the effective date of the initial FIRM.

(13) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

(14) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(15) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(17) "Existing structures" see "existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(20) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(21) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(22) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(26) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(28) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(31) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(32) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights



greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(35) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(36) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the City of Millington, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior or

(ii) Directly by the Secretary of the Interior.

(37) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(38) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(40) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(41) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(42) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(43) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

(44) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(45) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(46) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(47) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "100-year flood" see "base flood."

(49) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(50) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(51) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck;

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(53) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(54) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(55) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(56) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(57) "State coordinating agency" the Tennessee Department of Economic and Community Development, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(58) "Structure" for purposes of this ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(59) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(60) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be

- The appraised value of the structure prior to the start of the initial improvement, or
- In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either:

- Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or;

- Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(61) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(62) "Variance" is a grant of relief from the requirements of this ordinance.

(63) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (1981 Code,

§ 11.1002, as replaced by Ord. #2007-12, Sept. 2007, as replaced by Ord. #2016-14, Aug. 2016)

**14-1003. General provisions.** (1) Application. This ordinance shall apply to all areas within the incorporated area of the City of Millington, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Millington, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) dated February 6, 2013 and Flood Insurance Rate Map (FIRM), Community 470178, Panel Numbers 47157C0155F and 47157C0170F dated September 28, 2007 and 47157C0065G, 47157C0160G and 47157C0180G dated February 6, 2013, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body and;
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Millington, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance

shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Millington, Tennessee from taking such other lawful actions to prevent or remedy any violation. (1981 Code, § 11.103, as replaced by Ord. #2007-12, Sept. 2007, as replaced by Ord. #2016-14, Aug. 2016)

**14-1004. Administration.** (1) Designation of ordinance administrator. The director of planning and economic development is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-1005(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-1004(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and

substantially improved buildings have been floodproofed, in accordance with § 14-1014(2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-1004(2).

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Millington, Tennessee FIRM meet the requirements of this ordinance.

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (1981 Code, § 11.1004, as replaced by Ord. #2007-12, Sept. 2007, as replaced by Ord. #2016-14, Aug. 2016)

**14-1005. Provisions for flood hazard reduction.** (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;



(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-1005(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-1005(1), are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1)' above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls

shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1002). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (§ 14-1002). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-Residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-1004(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-1005(2).

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-1002).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-1005(1) and (2).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 14-1005(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-1003(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be

permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the City of Millington, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1005(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-1003(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1005(1) and (2).

(5) Standards for streams without established base flood elevations and Floodways (A Zones). Located within the special flood hazard areas established in § 14-1003(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-1005(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres,

whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1002). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-1004(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-1005(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of Millington, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1005(1) and (2). Within approximate A Zones, require that those subsections of § 14-1005(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-1003(2) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' - 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-1005(1) and (2) apply:

(a) All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate

automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-1005(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be flood proofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-1004(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-1003(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-1004 and 14-1005 shall apply.

(8) Standards for unmapped streams. Located within the City of Millington, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-1004 and 14-1005. (1981 Code, 11.1005, as replaced by Ord. #2007-12, Sept. 2007, as replaced by Ord. #2016-14, Aug. 2016)

**14-1006. Variance procedures.** (1) Municipal board of zoning appeals.

(a) Authority. The City of Millington, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times, as the Board shall determine. All meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of two hundred dollars (\$200.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than fifteen (15) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Millington, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation



will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the municipal board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the municipal board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(E) Variances shall not be issued within any designated flood way if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-1006(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty five dollars for one hundred dollars (\$25.00 for \$100.00) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (1981 Code, § 11.1001, as replaced by Ord. #2007-12, Sept. 2007, and Ord. #2016-14, Aug. 2016)

**14-1007. Legal status provisions.** (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Millington, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

(3) Effective date. This ordinance shall become effective immediately after its passage, in accordance with the charter of the City of Millington, Tennessee, and the public welfare requiring it. (as added by Ord. #2007-12, Sept. 2007, as replaced by Ord. #2016-14, Aug. 2014)

**CHAPTER 11****AHR AIRPORT HEIGHT REGULATION AND RUNWAY  
PROTECTION ZONE****SECTION**

- 14-1101. Purpose.
- 14-1102. Application of regulations.
- 14-1103. Airport zone hazards established.
- 14-1104. Height limits.
- 14-1105. Marking and lighting.
- 14-1106. Runway protection.

14-1101. Purpose. The purpose of this district is to establish regulations which will reduce or eliminate hazards to air navigation to minimize or prevent the loss of life, property damage, health and safety hazards, and government expenditures which result from air traffic accidents. (1981 Code, § 11.10A01)

14-1102. Application of regulations. (1) This district shall overlay land included within the airport hazard zones as shown on the zoning map. The regulations contained in this section shall apply to such land in addition to the regulations contained in the underlying zoning district of such land. Where there is a conflict between the provisions of this section and those of the underlying zoning district, the zone containing the more restrictive height regulations shall apply.

(2) The provisions of this section shall apply to any new use and any substantial improvement to an existing structure, when such uses and structures are located in the airport hazard zones established by this section.

(3) If a structure or tree is located in more than one of the zones established by this section, the zone containing the more restrictive regulations shall apply to such structure or tree. (1981 Code, § 11.10A02)

14-1103. Airport zone hazards established. In order to carry out the purposes of this section, the following airport hazard zones are hereby established and defined:

(1) Instrument approach zones. An instrument approach zone is established at the end of the existing or proposed instrument runway for instrument landings and takeoffs. The instrument approach zones shall have a width of one thousand feet at a distance of two hundred feet beyond each end of the runway, widening thereafter uniformly to a width of sixteen thousand at a distance of fifty thousand two hundred feet beyond each end of the runway along the centerline.

(2) Inner horizontal zone. An inner horizontal zone is established being a plane one hundred fifty feet above the established airport elevation for each

airport, and the perimeter of which is constructed by swinging arcs of ten thousand feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.

(3) Conical zone. A conical zone is established being a surface extending outward and upward from the periphery of the upper surface of the horizontal zone for each airport at a slope of twenty to one for a horizontal distance of ten thousand feet.

These zones are shown on the zoning map which is incorporated herein by this reference and made a part hereof. (1981 Code, § 11.10A03, as amended by Ord. #2000-08, § 2, June 2000)

14-1104. Height limits. Except as otherwise provided in this section, no structure or tree shall be erected, altered, allowed to grow or be maintained in any airport zone to a height in excess of the height limit established in this subsection for such zone. Such height limitations are computed as follows:

(1) Instrument approach zone. Height limits are as follows: One foot in height for each fifty feet in horizontal distance beginning at a point two hundred feet from the end of the instrument runway and extending to a distance of ten thousand two hundred feet from the end of the runway to a height of five hundred feet above the airfield elevation; then one foot in height for each forty feet in horizontal distance beginning at a point ten thousand two hundred feet from the end of the runway and five hundred feet above the airfield elevation and extending to a distance of fifty thousand two hundred feet from the end of the runway to a height of twelve hundred feet above the airfield elevation.

(2) Inner horizontal zone. Height limits are as follows: One hundred fifty feet above the airport elevation.

(3) Conical zone. Height limits are as follows: One foot in height for each twenty feet of horizontal distance beginning at the periphery of the horizontal zone and extending for a distance of four thousand feet to a height of three hundred fifty feet above the airfield elevation. (1981 Code, § 11.10A04, as amended by Ord. #2000-08, § 3, June 2000)

14-1105. Marking and lighting. The owner of any structure or tree which exceeds the height limits established by this section shall permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the airport manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the owner of the structure or tree. (1981 Code, § 11.10A05)

14-1106. Runway protection zone. A Runway Protection Zone ("RPZ") is an area of high accident potential, and consequently no new development will be allowed in this zone. An RPZ is established at the end of each existing or proposed runway. Each RPZ shall have a width of one thousand feet at a

distance of 200 feet beyond each end of each runway, widening uniformly to a width of one thousand seven hundred fifty feet at a distance of two thousand seven hundred feet beyond each end of each runway, along the centerline. (1981 Code, § 11.10A06, as replaced by Ord. #2000-08, § 4, June 2000)

## CHAPTER 12

### SPECIAL PROVISIONS

#### SECTION

- 14-1201. Procedures and requirements for site plan review.
- 14-1202. [Deleted.]
- 14-1203. Off-street parking.
- 14-1204. Requirements and standards for CMCS towers.

14-1201. Procedures and requirements for site plan review. The following procedures and standards are established for those sections of the zoning ordinance which require the submission and approval of a site plan prior to the issuance of a building permit or certificate of occupancy for any affected land structures, or buildings. Site plans shall be reviewed and approved or disapproved under the following procedures and standards as specified by the zoning ordinance.

(1) Site plan review authority. The planning commission and board of zoning appeals may require such changes in the required site plan as may be necessary to minimize the impact of the requested use. This may include but not be limited to setbacks, screening, lighting, park location and layouts, access and general landscaping requirements. This power of review shall include the authority to specify or alter the architectural style of proposed buildings, colors or similar considerations.

The commission or board requires a buffering of the development from surrounding properties by the use of fencing, plantings or combinations thereof.

(2) Site plan and design review. (a) Site plan review is required under three (3) separate instances by the zoning ordinance. These instances include:

(i) Review and approval by the Millington Building Inspector prior to the issuance of a building permit.

(ii) Review and approval by the Millington Board of Zoning Appeals as required by the zoning ordinance.

(iii) Review and approval by the Millington Planning Commission as required by the zoning ordinance.

(b) In instances of review by the Millington planning commission or board of zoning appeals the following procedure shall apply:

(i) The owner or developer shall submit twelve (12) copies of the proposed site plan to the building inspector fifteen (15) days prior to the regular meeting date of the planning commission or board of zoning appeals. Site plans shall be submitted thirty (30) days prior to the regular planning commission meeting when the drainage patterns of the site will be

changed and engineering review is required by the "City of Millington Drainage Design Manual." The site plan shall be reviewed in light of the provisions of this section and approved or disapproved. The plans then shall be returned to the owner or agent with the date of such approval or disapproval noted thereon over the signature of the secretary of the planning commission or chairman of the board of zoning appeals, whichever is applicable.

(ii) Prior to the regular planning commission or board of zoning appeals meeting, copies of the proposed site plan will be distributed by the building inspector to other affected city departments to review and approve those areas under their responsibility. A coordinated staff position will be developed for submission to the planning commission or board of zoning appeals. Resolution of outstanding problem areas will be the responsibility of the planning commission or the board of zoning appeals in coordination with the city staff and city board. The owner, developer, or agent will be invited to attend the meeting when there are unresolved problem areas.

(c) In instances of review by the Millington building inspector prior to the issuance of a building permit a site plan shall be submitted to the building inspector. The site plan shall be reviewed for compliance with the provisions of this section and approved or disapproved. In the instance of disapproval, reasons for such disapproval shall be stated in writing.

(d) Contents of site plan:

(i) The site plan shall conform to the following requirements and will provide:

(A) Name of proposed development and/or address.

(B) Name, address, and phone number of owner of record and the applicant.

(C) Scale of not less than 1" = 100'.

(D) Present zoning of the site and abutting property.

(E) Date, and north point with reference to source of meridian.

(F) Courses and distances of center lines of all streets.

(G) All building restricting lines, highway setback lines, easements, covenants, reservations and rights-of-way.

(H) The total land area.

(I) Topography of existing ground, and paved areas and elevations of streets, alleys, utilities, sanitary and storm sewers and buildings and structures. Topography to

be shown by dashed line illustrating, two-foot contours and spot elevations where necessary to indicate flat areas.

(J) A detailed stormwater management plan meeting all the requirements of "City of Millington Drainage Design Manual."

(K) Include a vicinity map showing the relationship of the proposed development to Millington.

(ii) The site plan shall show the location of the following when existing or proposed:

(A) Sidewalks, streets, curb cuts, alleys, easements and utilities.

(B) Building and structures.

(C) Public sewer systems.

(D) Slopes, terraces and retaining walls.

(E) Driveways, entrances, existing parking areas and sidewalks and garbage collection site.

(F) Water mains and fire hydrants.

(G) Trees and shrubs.

(H) Recreational areas, and swimming pools.

(I) Natural and artificial water courses.

(J) Limits of flood plains if any.

(K) Proposed grading, surface drainage terraces, retaining wall heights, grades on paving areas, and ground floor elevations of proposed buildings and structures, and structures. Proposed topography of site shall be shown by two or five foot contours as required by the city engineer.

(L) Distances between buildings.

(M) Estimates of the following when applicable:

(1) Number of dwelling units.

(2) Number of parking spaces.

(3) Number of loading spaces.

(4) Number of commercial or industrial tenants and employees.

(e) Certificates on the site plan will include the following:

(i) A certificate by a licensed civil engineer certifying that the plan as shown is true and correct;

(ii) Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any required improvements of adjacent streets as shown on the plan.

(f) The certification required of the owner and trustee of the mortgage in § 14-1201(2)(e)(ii) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved site plan. Upon such certification by the owner, the approved



site plan shall be recorded by the building inspector with the Shelby County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the building inspector notes variations from the approved site plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the building inspector, the owner has not complied with the provisions of the approved site plan, the building inspector shall have the authority to cite the owner to Municipal Court for violation of the zoning ordinance.

(g) Provided that all other applicable provisions of this section have been met, as determined by a finding of the Millington Planning Commission during their review at an official meeting, and upon the granting of approval to the site plan under review, the effective period for site plan approval shall be one (1) year (12 months) from the date of the approval granted by the Millington Planning Commission. The planning commission may grant a maximum six (6) months extension of the effective period to such an approved site plan upon written request and showing cause by the developer, provided that, in the opinion of the planning commission, no substantive zoning amendments or city policies or zoning changes have been enacted since its approval which would make such site plan deficient or which the formerly approved site plan would be in conflict. Provided further that a request for such an extension must be officially made no later than thirty (30) days prior to the expiration date of the initial one (1) year effective period. Each such approved site plan becomes void upon the planning commission's official approval of a subsequent site plan for the same development.

(3) Design plan review. The planning commission shall have design review authority of all structures in all commercial districts. In addition to all information required in the site plan review section, front and side elevation shall be shown.

(a) The planning commission shall review the site plan and make a recommendation within thirty (30) days.

In making its recommendation the planning commission shall consider and determine whether the proposed structures included in the Design Plan will conform to proper design standards and the general character of the area. The proposed development shall have a reasonable relationship to the area and shall be conducive to proper development of the city and its existing environment in an effort to prevent the harmful effects of improper appearances of buildings erected in the city and thus to promote the health, safety, comfort, general welfare, and prosperity of the community.

The criteria to be considered by the planning commission in determining whether a proposed structure(s) will conform to proper design standards and the general character of the area are as follows:

(i) The plan for the proposed structure(s) is in conformity with appropriate and acceptable architectural standards, the general character of the surrounding neighborhood and the community and the orderly development of the community.

(ii) The plan for the proposed structures indicates that the structures is reasonably protected against external and internal noise, vibrations, and other conditions which might tend to make the environment less desirable.

(iii) The proposed structure(s) is not in its exterior design and appearance, of such inferior quality as to cause the area to depreciate in appearance or value.

(iv) The proposed development is in compliance with all applicable ordinances and statutes governing the location and appearance of buildings and structures.

(b) The certification required of the owner and trustee of the mortgage in § 14-1201(2)(e)(ii) of the zoning ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved site plan. Upon such certification by the owner, the approved site plan shall be recorded by the building inspector with the Shelby County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the building inspector notes variations from the approved site plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the building inspector, the owner has not complied with the provisions of the approved site plan, the building inspector shall have the authority to cite the owner to municipal court for violation of this zoning ordinance.

(c) The building inspector shall have the authority to authorize minor revisions to the approved. site plan during the process of construction, if, in his opinion the revisions do not materially alter the nature of the approved site plan, with the written concurrence of the mayor and chairman of the planning commission. (1981 Code, § 11.1101, as amended by Ord. #1990-14, Feb. 1991, modified)

14-1202. [Deleted.] (1981 Code, § 11.1102, as amended by Ord. #1997-13, Oct. 1997, Ord. #2000-20, Sept. 2000, Ord. #2003-20, July 2003, and Ord. #2009-3, March 2009, and deleted by Ord. #2010-08, May 2010)

14-1203. Off-street parking queuing and loading. (1) General provisions.

(a) In all districts, when any building or structure is constructed or at the time any main building or structure is enlarged or increased in capacity

by additional dwelling units, guest rooms, seats or floor area, or before conversion from one zoning use or occupancy to another, permanent off-street parking shall be provided of at least one hundred eighty (180) square feet per space with vehicular access to a street or alley. The minimum width of a parking space shall be 9' wide and 18' deep, subject to the specific dimensions as shown on the attached Illustration 5.

For commercial development when estimating a site's parking capacity it is best to provide 350 square feet of area per car to allow for access drives and incidental areas such as landscape plots and unusable corners. The city reserves the right to control entrance and exit over private right-of-ways.

Off-street parking spaces shall be deemed to be required open space associated with the permitted uses, and shall not hereafter be reduced or encroached upon in any manner except in conformity with this ordinance.

(b) A parking space is required for a portion of a unit of measurement one-half or more of the amount set forth herein.

(c) Parking spaces maintained in connection with an existing and continuing main buildings or structure on the effective date of this ordinance, shall be continued and may not be counted as serving a new structure or addition.

(d) A residential off-street parking space shall consist of a driveway and either a parking space carport or garage and shall be located on the lot it is intended to serve. Off-street parking in a residential area shall not be permitted in the front yard unless it is located on a paved driveway or parking area. In no case shall parking in the grass be permitted.

(e) The entire parking area, including parking spaces and maneuvering lanes, required under this section shall be provided with four inch (4") compacted gravel surface in accordance with specifications approved by the building inspector. Single-family and two-family developments shall provide an on-site surfaced parking area of either asphalt or concrete of an area required by the zoning ordinance. In commercial, industrial, and multifamily developments, the parking area will be paved with a four inch (4") asphalt sub-base and two inches (2") of asphalt surface treated to be impermeable to prevent the intrusion of water, or the parking area may be surfaced with concrete if preferred. The concrete shall be a minimum thickness of four inches (4") of reinforced concrete approved by the building inspector.

(f) In parking areas which abut an adjacent property line or is adjacent to a street right-of-way, all areas shall have either a continuously formed curbing six inches (6") in height or individual concrete stops located so as to prevent encroachment to any property line or street right-of-way.

(g) Joint use of required parking spaces may occur where two (2) or more uses on the same or separate sites are able to share the same parking spaces because their parking demands occur at different times. Joint use of required parking spaces is allowed only if the uses are allowed in the zone where the parking is located. Joint use of required parking spaces may be allowed if the following documentation is provided and approved by the BZA.

(i) The names and addresses of the uses and of the owners or tenants that are sharing the parking;

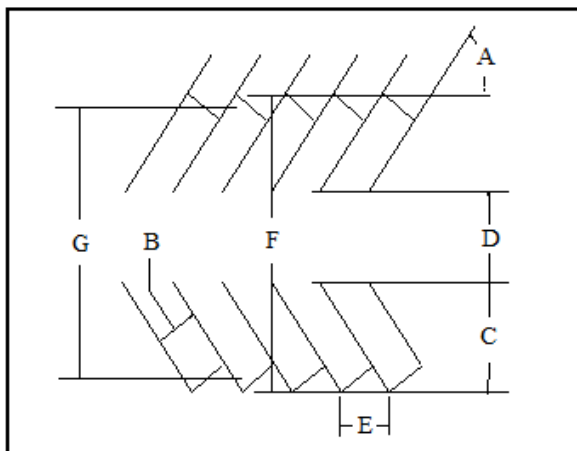
(ii) The location and number of parking spaces that are being shared;

(iii) An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and

(iv) A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses.

**ILLUSTRATION 5  
PARKING DESIGN REQUIREMENTS**

A	B	C	D	E	F	G
0°	9.0'	9.0'	12.0'	25.0'	30.0'	30.0'
20°	9.0'	16.0'	12.0'	26.3'	44.0'	35.5'
30°	9.0'	18.0'	12.0'	18.0'	48.0'	40.0'
45°	9.0'	19.0'	13.0'	12.7'	52.0'	46.5'
60°	9.0'	19.5'	18.0'	10.4'	19.5'	55.0'
70°	9.0'	19.5'	19.0'	9.6'	60.5'	57.0'
80°	9.0'	20.0'	22.0'	9.1'	61.5'	60.0'
90°	9.0'	20.0'	22.0'	9.0'	61.5'	62.0'



A	PARKING ANGLE
B	STALL WIDTH
C	STALL TO CURB
D	AISLE WIDTH
E	CURB LENGTH PER CAR
F	CURB TO CURB WIDTH OF DOUBLE ROW WITH AISLE
G	CENTER TO CENTER WIDTH OF DOUBLE ROW WITH AISLE

(2) Minimum number of spaces for specific uses:

(a) Residential.

Dwelling, one and two family, townhouses, and mobile homes	2 spaces per dwelling unit
Multiple Family	
One bedroom	1.5 spaces per dwelling unit
Two and three bedroom	2.0 spaces per dwelling unit
Retirement home or assisted living home	1 space per dwelling unit
All other residential uses not listed	As determined by the Planning Commission or the Board of Zoning Appeals

(b) Retail.

Lumber and building materials	1 space per 500 square feet
Hardware and Paint	of total floor area
Plumbing and heating supply	1 space per 1,000 square feet of total floor area
Greenhouse, nursery products, agricultural equipment, lawnmower sales and service area	1 space per 1,000 square feet of total floor area plus 1 space for each 5,000 square feet of covered or uncovered display
Shopping centers and malls	1 space per 200 square feet of total floor area
General merchandise, clothing, variety and department stores	1 space per 200 square feet of total floor area
Furniture, home furnishings, art, antiques, books and stationary stores	1 space per 400 square feet of total floor area

Grocery stores and supermarkets	1 space per 150 square feet of total floor area
Hotels, motels, tourist courts	1.0 spaces for each room plus 1 space for each 200 square feet of meeting rooms or restaurant open to the general public
Delicatessens and bakeries	1 space per 150 square feet of total floor area
Package liquor store and beverage store	1 space per 200 square feet of total floor area
Auto sales and service, auto parts, boat sales and service, boat parts, motorcycle sales and service	1 space per 500 square feet of total floor area
Mobile home, semi-truck and heavy equipment sales	1 space per 500 square feet of total floor area
Restaurants, cafes and cafeterias	1 space per 200 square feet of total floor area
Fast food and drive-through restaurants	1 space per 150 square feet of total floor area
Taverns and bars	1 space per 150 square feet of total floor area
Fuel or gas stations	1 space per 250 square feet of total floor area with a minimum of 5 parking spaces
Convenience store	1 space per 200 square feet of total floor area
Pawn shop	1 space per 300 square feet of total floor area
All other retail trade not listed	As determined by the Planning Commission or the Board of Zoning Appeals
(c) Finance, insurance and real estate.	
Banks, savings and loans, real estate offices and insurance	1 space per 200 square feet of total floor area
All other finance insurance and real estate not listed	As determined by the Planning Commission or the Board of Zoning Appeals
(d) Personal services.	
Laundry, dry cleaning, apparel repair and cleaning services	1 space per 350 square feet of total floor area

Beauty, barber and photographic services	1 space per 300 square feet of total floor area and 1 space per employee
Kennels All other personal services not listed	1 space per 1,000 square feet of total floor area As determined by the Planning Commission or the Board of Zoning Appeals
(e) Business services.	
Advertising, consumer credit reporting and collections	1 space per 400 square feet of total floor area
Printing and publishing	1 space per 400 square feet of total floor area
Photocopying, mailing clerical and employment	1 space per 400 square feet of total floor area
Freight forwarding and trucking terminals	1 space per 5,000 square feet of total floor area
Self storage and warehousing	3 spaces plus 1 space per 50 units
Warehousing and storage	3 spaces plus 1 space per 1,000 square feet of floor area
Monument sales	1 space per 500 square feet of total floor area
Car wash-full service Car wash-self service	1 space per 1,000 square feet of total floor area 2 spaces plus 1 space per wash bay
All other business services not listed	As determined by the Planning Commission or the Board of Zoning Appeals
(f) Repair services.	
Automobile repair, oil and fluid changing services,	2 spaces per service lane plus one for each 200 sq. ft.
General electrical and other Similar repair services	1 space per 300 square feet of total floor area
All other repair services not listed	As determined by the Planning Commission or the Board of Zoning Appeals

(g) Professional services.	
Physicians, dentist offices and clinics	1 space per 150 square feet of total floor area
Veterinarians and animal hospitals	1 space per 300 square feet of total floor area
Hospitals and sanitariums	1 space for each employee, 2 spaces for each bed plus 1 space for each emergency vehicle
Convalescent homes and rest homes	1 space for each employee plus 1 space for each 4 beds with a minimum of 4 spaces
Day care and child care centers	1.5 spaces per care room with a minimum of 5 spaces plus a paved unobstructed pick-up area with adequate queuing area
Attorneys, accountants, and engineers	1 space per 300 square feet of total floor area
All other professional services not listed	As determined by the Planning Commission or the Board of Zoning Appeals
(h) Contract construction services.	
All contract construction services	1 space per 1,000 square feet of total floor area
(i) Governmental services.	
All governmental services	As determined by the Planning Commission or the Board of Zoning Appeals
(j) Educational services.	
Elementary and middle schools	1 space for each classroom, plus 1 space for each staff member and employee other than teachers, plus 10 additional spaces. When an auditorium is provided, 1 additional space per 3 seats is required.
Senior high school	1 space for each classroom plus 1 space for each staff member and employee other than teachers, plus 1 space for each 15 students based on the capacity for which the building was designed. When an auditorium is provided, 1 additional space per 3 seats in the auditorium is required.



All other educational services not listed	As determined by the Planning Commission or the Board of Zoning Appeals
(k) Miscellaneous Services	
Labor unions, clubs, lodges and civic, social or fraternal associations	1 space per 100 square feet of total floor area
Funeral home or moratorium	1 space per 100 square feet of total floor area
All other miscellaneous services not listed	As determined by the Planning Commission or the Board of Zoning Appeals
(l) Cultural activities.	
Libraries, museums and art galleries	1 space per 1,000 square feet of total floor area
All other cultural activities not listed	As determined by the Planning Commission or the Board of Zoning Appeals
(m) Public assembly.	
Motion picture theaters, Amphitheaters and stadiums	1 space per 3 seats or 6 feet of bench space
All other public assembly uses not listed	As determined by the Planning Commission or the Board of Zoning Appeals
(n) Amusements.	
Golf driving ranges and miniature golf	2 spaces per hole or tee
Arcades and pool halls	1 space per 200 square feet of total floor area
All other amusement uses not listed	As determined by the Planning Commission or the Board of Zoning Appeals
(o) Recreational activities.	
Roller skating rinks and athletic clubs	1 space per 250 square feet of total floor area
All other recreation uses not listed	As determined by the Planning Commission or the Board of Zoning Appeals

(p) Communications and utilities.

All communications and utility services As determined by the Planning Commission or the Board of Zoning Appeals

(q) Institutional.

Churches, synagogues and other places 1 space per 3 seats in the sanctuary  
places of worship

Nursing Home 1 space per 4 beds with a minimum of 4 spaces

All other institutional uses not listed As determined by the Planning Commission or the Board of Zoning Appeals

(r) Wholesale trade.

Drugs, chemicals, and allied products 1 space per 1,000 square feet of total floor area

Groceries, electrical goods, hardware 1 space per 1,000 square feet of total floor area  
and other items not listed

All other institutional uses not listed As determined by the Planning Commission or the Board of Zoning Appeals

(s) Industrial.

All industrial uses 1 space per 1,000 square feet of floor area or  
1.5 spaces for each 2 persons employed on the  
largest shift, whichever is greater

(3) Queuing spaces. The following off-street vehicle queuing standards apply unless otherwise expressly approved by the planning commission. The planning commission may require additional off-street queuing spaces where trip generation rates suggest that additional spaces will be needed.

(a) Minimum number of spaces. Off-street queuing spaces must be provided as follows:

Facility	Minimum Spaces per lane(s)	Measured From
Automated teller machine	3	Machine
Bank teller lane	3	Window
Pharmacy Drive Through	3	Window
Vehicle Lubrication Stall	1	Entrance to Stall
Car wash stall	1	Entrance to wash bay
Gasoline pump aisle (either side of the pump)	1*	Pump aisle entrance
Restaurant Drive through	6	Transaction Window
Guards and gatehouses	1	Guard or Gatehouse
All others	As determined by the Planning Commission	

\* If each island has two sets of pumps, no queuing space is required between the pumps. If two-way access is provided, queuing is required at either end of the pump aisle.

(b) The required queuing space shall be a minimum of 10' by 20' in size.

(c) All queuing spaces must be located on-site and cannot be permitted in the public right-of-way. The queuing spaces cannot impede on-site or off-site traffic movements between the site and the street or adjacent properties.

(4) Handicap parking requirements. (a) Accessible parking spaces need to be at least ninety six inches (96") (two thousand four hundred forty millimeters (2,440 mm) or eight feet (8')) wide and should have an adjacent access aisle.

(b) In case of van accessible parking space, an adjacent access aisle that is eight feet (8') wide is required. Standard vehicle parking space (cars) must have a five feet (5') wide access aisle adjacent to parking space.

(c) Regulations allow two adjacent parking spaces to share a common access aisle.

(d) Parking spaces and access aisles shall be in level with surface slopes not exceeding 1:50 (2%) in all directions.

(e) All access aisles should remain free of obstructions at all times. Parked vehicle overhangs shall not reduce the clear width of an accessible route.

(f) The boundary of the access aisle must be clearly marked. The end may be a curved or square shape.

(g) Vertical clearance. A minimum ninety eight inches (98") of height clearance at van parking space, access aisle, and on vehicular route to and from van space is required.

(h) Handicap ramps. All handicap ramps and accessible routes shall be designed in accordance with ADA requirements. The following do not represent all of the requirements, but some of the most significant requirements.

(i) The minimum width of a curb ramp shall be thirty six inches (36").

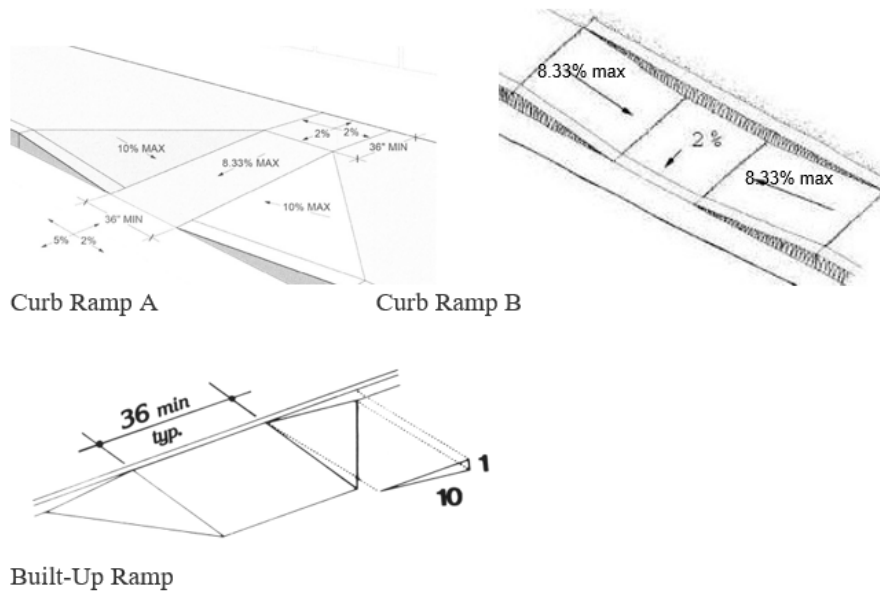
(ii) The maximum slope of a curb ramp shall be 1:12 or 8.33 %.

(iii) The maximum slope of a side or flare of a ramp shall be 1:10.

(iv) Curb Ramp A: When this type of ramp is used, there shall be a thirty six inches by thirty six inches (36" X 36") landing at the top of the ramp.

(v) Curb Ramp B: When a parallel curb ramp is used, the full width of the route shall not exceed a 1:12 slope.

(vi) Built-Up Ramp: When this ramp is used, it shall meet all other requirements and shall not extend into a vehicular traffic lane, parking space or the access aisles of handicap parking spaces.



**Minimum Number of Handicap Parking Spaces Required**

The amount of accessible parking spaces that must be provided is determined by the total number of spaces present in each parking lot. These regulations are based upon ADA rules and regulations.

Total Parking Spaces per Lot	(A) Standard (Car) accessible parking spaces (60 inch wide access aisle)	(B) Van Accessible Parking Spaces (96 inch wide access aisle)	TOTAL minimum number of accessible parking spaces (A + B)
1 – 25	0	1	1
26 - 50	1	1	2
51 – 75	2	1	3
76 – 100	3	1	4
101 – 150	4	1	5
151 – 200	5	1	6
201 – 300	6	1	7
301 – 400	7	1	8
401 – 500	7	2	9
501 – 1000	7 out of every 8 Accessible Parking Spaces	1 out of every 8 accessible parking spaces	2% of total parking provided in each lot
1001 (and over)	7 out of every 8 Accessible Parking Spaces	1 out of every 8 accessible parking spaces	20 plus 1 for each 100 over 1000

(5) Off-street loading and unloading requirements. (a) On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided, and maintained on the lot, adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated rights-of-way.

(b) All spaces shall be laid out in the dimension of at least ten feet by fifty feet (10' x 50') (five hundred (500) square feet in area), with a clearance of at least fourteen feet (14') in height.

(c) Where trailer trucks are involved, such loading and unloading space shall be an area twelve feet by fifty feet (12' x 50') with a fourteen foot (14') height clearance and shall be designed with appropriate means of truck access to a street or alley as well as adequate maneuvering area.

(d) The following ratio of spaces to floor area applies to all districts:

<u>Gross Floor Area</u>	<u>Space Required</u>
0 - 20,000 square feet	1 space
20,000 square feet and over	1 space plus 1 additional space for each 20,000 square feet in excess of 20,000 square feet

(1981 Code, § 11.1103, as amended by Ord. #2003-19, July 2003, as replaced by Ord. #2015-15, Sept. 2015, and amended by Ord. #2017-16, Nov. 2017)

14-1204. Requirements and standards for CMCS towers. Where CMCS towers may be permitted by special use permit under this zoning ordinance, the following standards shall be established for their review and approval.

(1) Any application for a new CMCS tower shall not be approved, nor shall any building permit for a new CMCS tower be issued, unless the applicant certifies that the CMCS equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or other structure because of one or more of the following reasons:

(a) The planned equipment would exceed the capacity of existing and approved structures, considering existing and planned use of those structures;

(b) The planned equipment would result in technical or physical interference with or from other existing or planned equipment;

(c) There are no appropriate existing or pending structures to accommodate the planned equipment, taking into account, among other factors, the applicant's system requirements;

(d) Other reasons that make it impracticable to place equipment planned by the applicant on existing and approved structures.

(2) Any proposed tower shall be structurally designed to accommodate at least one additional CMCS sectorized antenna array, if under 130 feet in height, or at least two additional CMCS sectorized antennas, if 130 feet in height or greater. Collocated CMCS antennas shall be placed on a structure in such a manner as to avoid interference with or impairment of operations of existing antennas or other uses.

(3) Nothing in this ordinance shall obligate the owner of an existing tower to collocate additional antennas on such tower, or shall be construed to interfere with or limit the rights of parties to set rent or establish other terms and conditions of the shared use of a CMCS tower or facility.

(4) Accessory facilities shall be permitted, but may not include offices, long-term vehicle storage, other outdoor storage, or broadcast studios, except for emergency purposes or other uses that are not needed to send or receive transmissions.

(5) Existing on-site vegetation shall be preserved to the maximum extent practicable and, shall be supplemented as required by the planning commission as necessary. Where the site abuts residentially developed land, residential zoning districts, the residential portion of an approved planned development, or public land or streets, the site perimeter shall be landscaped as required by the planning commission. Alternatives such as walls or fences may be permitted based on security or other reasons.

(6) Security fencing shall be required around the base and guy anchors of any towers.

(7) Towers shall not be artificially lighted unless:

(a) Required by the Federal Aviation Administration or other governmental authority;

(b) Circumstances make lighting appropriate for safety or other reasons unique to a specific location that are set forth in that application, but in no case shall any lighting shine into adjacent residential structures.

(8) The application for special use permit approve shall include the following:

(a) A site plan drawn showing the property boundaries, tower, guy wire anchors (if any), existing structures, proposed transmission buildings and/or other accessory uses, access, parking, fences, a landscaping plan and existing abutting land uses around the site.

(b) A study from a professional engineer which specifies the tower height and design including a cross-section of the structure, demonstrates the tower's compliance with applicable structural standards, including a certification that the tower will withstand at a minimum sustained winds in accordance with the appropriate building

code, and a description of the tower's capacity, including the number and type of antennas which it can accommodate.

(c) Written statements that the proposed tower will comply with regulations administered by the Federal Aviation Administration, Federal Communications Commission, and all applicable governmental bodies or that the tower is exempt from those regulations.

(d) A letter of intent committing the tower owner and such owner's successors to allow shared use of the tower if capacity exists based on existing and planned use, and if a future applicant agrees in writing to pay any reasonable charge for shared use, the potential use is technically compatible, and the future applicant is in good standing.

(9) The center of any CMCS tower, measured radially from the center of the tower, shall be at least five hundred feet (500') from the nearest property line of any real property that is zoned for residential use at the time the location of the CMCS tower is approved by the Board of Zoning Appeals, provided the CMCS tower is constructed at the approved location within one hundred eighty (180) days following such approval.

(10) All COS towers must be spaced a minimum distance of 114 mile apart, as measured from property line to property line. (Ord. #1997-17, Feb. 1998, as amended by Ord. #2012-6, March 2012)

## CHAPTER 13

ADMINISTRATION AND ENFORCEMENT

## SECTION

14-1301. Administration.

14-1302. Building permits.

14-1303. Certificate of occupancy.

14-1301. Administration. The provisions of this zoning ordinance shall be administered by the building inspector. He shall have the power to make inspections of buildings or premises necessary to carry out these duties in the enforcement and administration of this zoning ordinance. (1981 Code, § 11.1201)

14-1302. Building permits. Building permits are required and it shall be unlawful to commence construction of any parking lot, addition to or construction of a building including accessory buildings until the building inspector has issued a building permit for such work.

(1) Site plan as set forth in § 14-1201 to be submitted by the applicants for a building permit. The site plan shall be drawn by a licensed surveyor or licensed engineer showing the actual dimensions and shape of the lot to be built on; any proposed excavations and drainage treatments; the size and location on the lot of buildings already existing, if any; the location and dimensions of the proposed use, building or alteration; the location of all driveways and entrances; and the location and provisions for parking as required by the zoning ordinance. The building inspector may waive the requirement of having a site plan in those cases he deems appropriate.

(2) Additional building permit information shall include such other information as may be required by the building inspector. The information shall include the existing and proposed uses of the buildings and land, the number of families, housekeeping units or rental units on the lot; and other such matters as may be necessary to determine conformance with the provide for the enforcement of this zoning ordinance. No building permit shall be issued until the building inspector receives written approval by the Millington Water and Sewer Department of the proposed provisions for water supply and sewage disposal for the proposed use.

(3) Issuance of building permit. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this zoning ordinance and other ordinances of Millington, Tennessee, then in force, the building inspector shall issue a building permit for such excavation or construction. If a building permit is refused, the building inspector shall state such refusal in writing with the cause. This issuance of a building permit shall in no case be construed as waiving any provision of this zoning ordinance. A



building permit shall become void six (6) months from the date of issuance unless construction has begun. Once begun, all construction must be completed within eighteen (18) months from the date of issuance of the permit or said permit shall become void.

A complete record of such application sketches and plans shall be maintained in the office of the building inspector. (1981 Code, § 11.1202)

14-1303. Certificate of occupancy. No land or building or part thereof hereafter erected or altered in its use or structure shall be used or occupied or reoccupied until the building inspector shall have issued a certificate of occupancy stating that such land, building, or part thereof and the proposed use thereof are found to be in conformity with the provisions of this and all other ordinances of the City of Millington. Within fourteen (14) days of receipt of the building inspector of a written notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the building inspector to make a final inspection thereof and to issue a certificate of occupancy if the land, building, or part thereof are found to conform with the provisions of this zoning ordinance; or, if such certificate is refused to state such refusal in writing with the cause. (1981 Code, § 11.1203)

## CHAPTER 14

BOARD OF ZONING APPEALS

## SECTION

- 14-1401. Created as appellate board.
- 14-1402. Creation and appointment.
- 14-1403. Compensation.
- 14-1404. Appeals: how taken.
- 14-1405. Powers.
- 14-1406. Training.

14-1401. Created as appellate board. The board of zoning appeals is created as an appellate board to review: actions of the building inspector; applications for uses permitted by appeal; and requests for variances. In all cases the actions of the board of zoning appeals for the City of Millington shall be governed as set forth below. (1981 Code, § 11.1301)

14-1402. Creation and appointment. A board of zoning appeals is hereby established in accordance with Tennessee Code Annotated, § 13-7-305. The board of zoning appeals shall consist of five (5) members, not more than one (1) of whom shall be a member of the Millington municipal planning commission and who shall be appointed by the mayor of the City of Millington. The terms of membership shall be five (5) years, except that the terms of four of the members first appointed shall be one (1), two (2), three (3) and four (4) years respectively. Vacancies shall be filled for an unexpired term by appointment by the board of mayor and aldermen. (1981 Code, § 11.1301.1)

14-1403. Compensation. All members of the board shall serve with such compensation as may be fixed by the board of mayor and aldermen and may be removed from membership by majority vote of the board of mayor and aldermen for continued absence or just causes. Any member being so removed shall be provided, upon his request, a public hearing upon the removal decision. (1981 Code, § 11.1301.2)

14-1404. Appeals: how taken. Any appeal to the board of zoning appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, board or bureau affected by any decision of the building inspector based in whole or in part upon the provisions of this ordinance. The building inspector shall be required to specify in writing to the applicant either his approval or rejection and within 30 days from the date of said approval or rejection, the appeal as aforesaid may be taken by filing with the board of zoning appeals a notice of appeals, specifying the grounds thereof.

Inspector shall transmit to the board all papers constituting the record of actions taken prior to the request for an appeals. The board of zoning appeals shall fix a notice there as well as due notice to the parties in interest, and decide same within a reasonable time.

At the time of the hearing any person or party may appear in person or by agent or by attorney. (1981 Code, § 11.1301.3)

14-1405. Powers. The board of zoning appeals shall have the following powers:

(1) Administrative review. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit decision, determination or refusal made by the building inspector or other administrative official in carrying out or enforcement of any provisions of the ordinance; and for interpretation of the zoning map.

(2) Special exceptions. To hear and decide applications for special exceptions as specified in this zoning ordinance.

(3) Variance. To hear and decide applications for variance from the terms of this ordinance, but only where by reason of exceptional narrowness, shallowness or shape of specific piece of property which at the time of the adoption of this ordinance was a lot of record; or where, by reason of exceptional topographic conditions or other extraordinary or exceptional situation or conditions of piece of property the strict application of the provisions of the ordinance would result in exceptional difficulties or the exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without the substantial detriment to the public and without substantially impairing the intent and purpose of this zoning ordinance. Financial disadvantage to the property owner is no proof of hardship within the purpose of zoning and as further explained below.

The board of zoning appeals shall not grant a variance unless it makes findings based upon evidence presented to it as follows.

(a) The particular physical surroundings, shape, or topographic conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this zoning ordinance were carried out.

(b) The conditions upon which the petition for variance is based would not be applicable, generally, to other property within the same district.

(c) The variance will not authorize activities in a zoning district other than those permitted by this zoning ordinance.

(d) Financial returns alone shall not be considered basis for granting a variance.

(e) The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this zoning ordinance.

(f) That granting the variance requested will not confer on this applicant any special privilege that is denied by this ordinance to other lands, structures, or building in the same district.

(g) The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(h) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which property is located.

(i) The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

(j) The variance is not based on the fact of nonconforming use of neighboring lands, structures or buildings in the same district.

(k) Under no circumstances shall the board of appeals grant a variance to allow a use not permissible under the terms of this zoning ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this zoning ordinance in said district.

(4) Conditions and restrictions by the board of zoning appeals. The board of zoning appeals may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to reduce or minimize the injurious effect of such variation upon surrounding properties and better carry out the general intent of this zoning ordinance.

(5) Rules and proceedings of the board of zoning appeals. The board of zoning appeals shall adopt rules for the conduct of its meetings. Such rules shall at the minimum require that:

(a) The presence of three members shall constitute a quorum and the concurring vote of at least three members of the board of zoning appeals shall be necessary to deny or grant any application before the board.

(b) The board of zoning appeals shall elect from its members its own chairman and vice-chairman, and secretary who shall serve for 1 year and may upon election serve succeeding terms.

(c) Any member of the board of zoning appeals who shall have direct or an indirect interest in any property which is the subject matter of or affected by a decision of the board of zoning appeals shall be disqualified from participating in the discussion, decision, and proceeding of the board of zoning appeals in connection therewith. The burden of revealing any such conflict rests with individual members of the board of zoning appeals. Failure to reveal any such conflict shall constitute grounds for removal from the board of zoning appeals.

(d) Meeting of the board of zoning appeals. Meetings shall be held at the call of the chairman and at such other times as the board of zoning appeals may determine. The chairman, or in his absence the

vice-chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public and proper public notice of such meetings shall be given.

(e) No action shall be taken by the board of zoning appeals on any case until after a public hearing and notice thereof. Said notice of public hearing shall be published in a newspaper of general circulation in Millington at least 5 days before the date set for a public hearing and a written notice of the hearing be sent by mail to the appellant and all directly affect property owners at least 5 days before the hearing. The notice to appellant shall be sent by registered mail.

(f) The board of zoning appeals may call upon any other office or agency of the city government for information in the performance of its duties and it shall be the duty of such other agencies to render such information to the board of zoning appeals as may be reasonably required.

(g) The Millington planning commission shall be permitted to submit an advisory opinion on any matter before the board of zoning appeals and such opinion shall be made part of the record of such public hearing.

(h) In any decision made by the board of zoning appeals on a variance, the board of zoning appeals shall:

(i) Indicate the specific section of this zoning ordinance under which the variance is being considered, and shall state its finding beyond such generalities as "in the interest of public health, safety general welfare".

(ii) In cases pertaining to hardship, specifically identify the hardship warranting such action by the board of zoning appeals.

(i) At the public hearing of the case before the board of zoning appeals, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other.

(j) Right to entry upon land. The board of zoning appeals, its members and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this zoning ordinance. (1981 Code, § 11.1301.4)

14-1406. Training. Members of the board of zoning appeals shall not be required to obtain training as required by Tennessee Code Annotated, § 13-7-205(c). (as added by Ord. #2017-4, April 2017)

## CHAPTER 15

AMENDMENTS

## SECTION

- 14-1501. General.
- 14-1502. Initiation of amendments.
- 14-1503. Application for amendment fee.
- 14-1504. Review and recommendation by the planning commission.
- 14-1505. Grounds for an amendment.
- 14-1506. Public hearing and notice of hearing.
- 14-1507. Amendments affecting zoning map.
- 14-1508. Effect of denial of application.

14-1501. General. The board of mayor and aldermen may, from time to time, amend this zoning ordinance by changing the boundaries of districts or by changing any other provisions whenever it is alleged that there was an error in the original zoning ordinance, or whenever the public necessity, convenience, and general welfare require such amendment. (1981 Code, § 11.1401)

14-1502. Initiation of amendments. Amendments may be initiated by the board of mayor and aldermen, planning commission, or by an application of one or more owners or agents of property affected by the proposed amendment. (1981 Code, § 11.1402)

14-1503. Application for amendment - fee. An application by an individual for an amendment shall be accompanied by a fee as set by the board of mayor and aldermen of the City of Millington and shall also be accompanied by maps, drawing, and data necessary to demonstrate that the proposed amendment is in conformance with the general plan of the area and that public necessity, convenience, and general welfare require the adoption of the proposed amendment. Specifically, the application shall contain the following information:

- (1) Name, address and telephone number of applicant.
- (2) If different from the applicant, the name, address and telephone number of the owner or other person having a contractual interest in the property for which a zoning district amendment is requested.
- (3) A plot plan/legal description of each parcel of property proposed to be reclassified.
- (4) A vicinity map showing the subject property and all adjacent properties. Such vicinity map shall indicate the owner's name and dimensions of each parcel shown.
- (5) A list of the names and addresses of the owners of each parcel of property shown on the vicinity map.

(6) Present zoning classification and use of each parcel of property for which a zoning amendment is requested.

(7) If an amendment to the zoning map is requested, the zoning classification requested for each parcel which is the subject of the application.

(8) If an amendment to the text of this zoning ordinance is requested, the language of the proposed text amendment and a statement of the reason for the requested amendment. (1981 Code, § 11.1403)

14-1504. Review and recommendation by the planning commission. The planning commission shall review and make recommendations to the board of mayor and aldermen on all proposed amendments to this zoning ordinance. (1981 Code, § 11.1404)

14-1505. Grounds for an amendment. The planning commission in its review and recommendation and the board of mayor and aldermen in its deliberations shall make specific findings with regard to the following grounds for an amendment and shall note the same in the official record as follows:

(1) The amendment is in agreement with the general plan for the area.

(2) It has been determined that the legal purposes for which zoning exists are not contravened.

(3) It has been determined that there will not be adverse effect upon adjoining property owners unless such adverse effect can be justified by the overwhelming public good or welfare.

(4) It has been determined that no property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

(5) It has been determined that there was a mistake made in the original zoning or a change in conditions which prompted the original zoning. (1981 Code, § 11.1405)

14-1506. Public hearing and notice of hearing. A public hearing shall be held on all proposed amendments to this zoning ordinance prior to the final reading by the board of mayor and aldermen. Notice of such hearing be displayed as follows:

The city recorder shall give notice in a newspaper of general circulation within the City of Millington at least 15 days, but no more than 30 days, prior to the public hearing. This notice shall specify the location, current and proposed zoning classification, and it may contain a graphic illustration of the area. (1981 Code, § 11.1406)

14-1507. Amendments affecting zoning map. Upon enactment of an amendment to the zoning map which is part of this zoning ordinance, the building inspector shall cause such amendment to be placed upon the zoning map noting thereon the ordinance number and effective date of such amendatory ordinance. (1981 Code, § 11.1407)

14-1508. Effect of denial of application. Whenever an application for an amendment to the text of this zoning ordinance or for a change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for one year following such denial, except in the following cases:

(1) Upon initiation by the board of mayor and aldermen or planning commission.

(2) When the new application, although involving any or a portion of the same property, is for a different zoning district than that for which the original application was made.

(3) When the previous application was denied for the reason that the proposed zoning would not conform with the general plan, and the general plan has subsequently been amended in a manner which will allow the proposed zoning. (1981 Code, § 11.1408)



## CHAPTER 16

LEGAL STATUS PROVISIONS

## SECTION

- 14-1601. Interpretation.
- 14-1602. Relation to other laws and private restrictions.
- 14-1603. Ordinance provisions do not constitute permit.
- 14-1604. Provisions are cumulative.
- 14-1605. Separability.
- 14-1606. Application of regulation.
- 14-1607. Scope of regulation.
- 14-1608. Violation and penalty.
- 14-1609. Effective date.

14-1601. Interpretation. In their interpretation and application, the provisions of this zoning ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare. (1981 Code, § 11.1501)

14-1602. Relation to other laws and private restrictions.

(1) Where the conditions imposed by any provisions of this zoning ordinance upon the use of land or buildings, or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this zoning ordinance or of any other law, resolution, ordinance, rule or regulation of any kind, the regulations which are more restrictive shall apply.

(2) This zoning ordinance is not intended to abrogate any easement, covenant, or any other private agreement, provided that where the regulations of this zoning ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this zoning ordinance shall govern. (1981 Code, § 11.1502)

14-1603. Ordinance provisions do not constitute permit. Nothing contained in this zoning ordinance shall be deemed to be a consent, license or permit to use any property or to locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation or activity. (1981 Code, § 11.1503)

14-1604. Provisions are cumulative. The provisions of this zoning ordinance are cumulative with additional limitations imposed by all other laws and ordinances, heretofore passed or which may be passed hereafter, governing any subject matter appearing in this zoning ordinance. (1981 Code, § 11.1504)

14-1605. Separability. It is hereby declared to be the intention of the City of Millington, Tennessee, that the several provisions of this zoning ordinance are separable in accordance with the following:

(1) If any court of competent jurisdiction shall adjudge any provision of this zoning ordinance to be invalid, such judgement shall not affect any provision of this zoning ordinance not specifically included in said judgement.

(2) If any court of competent jurisdiction shall adjudge the application of any provision of this zoning ordinance to a particular property, building or other structure, such judgement shall not affect the application of said provisions to any other property, building, or structure, such judgement shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgement. (1981 Code, § 11.1505)

14-1606. Application of regulation. No building or other structure shall be constructed, erected, placed or maintained and no land use commenced within the city except as specifically, or by necessary implication, authorized by this zoning ordinance. Special exception uses are allowed only on permit granted by the board of zoning appeals. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication. (1981 Code, § 11.1506)

14-1607. Scope of regulation. (1) New uses, lots, buildings or other structures. Upon the effective date of this zoning ordinance, any new building or other structure or any tract of land shall be used, constructed, or developed only in accordance with the use, bulk, and all other applicable provisions of this zoning ordinance.

(2) Existing use, lots, building or other structures. Any existing use, lot parcel, building or structure legally established prior to the effective date of this zoning ordinance, which does not comply with the provisions, shall be subject to the nonconforming use provisions in § 14-401(2) of this zoning ordinance.

(3) Alteration of existing building and other structures. All structural alterations or relocation of existing building or structures, occurring after the effective date of this zoning ordinance, and all enlargements of, or additions to, existing uses occurring hereafter shall be subject to all regulations of this zoning ordinance which are applicable to the zoning districts in which such buildings uses, or land shall be located. (1981 Code, § 11.1507)

14-1608. Violation and penalty. Any person, firm, or corporation violating any of the provisions of this zoning ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars (\$50.00). Each day's continuance of a violation shall be considered a separate offense. The owner of any building or premises, or part thereof, where anything in violation of this ordinance shall be placed, or shall exist, and any

person who may have knowingly assisted the commission of any such violations, shall be guilty of separate offense. (1981 Code, § 11.1508)

14-1609. Effective date. This ordinance shall be in full force and effect ten (10) days after final passage the public welfare requiring it. (1981 Code, § 11.1509)

## CHAPTER 17

SUBDIVISION DEVELOPMENT

## SECTION

14-1701. Adoption of code for minimum standards for subdivision development.

14-1702. Incorporation by reference.

14-1701. Adoption of code for minimum standards for subdivision development. There is hereby adopted by the City of Millington, Tennessee, for the purpose of establishing basic rules and regulations and provisions governing the development of subdivisions within the city, and the regulations governing water, sewage, drainage, curbs, gutters, sidewalks, etc., the City of Millington Code for Minimum Standards for Subdivision Development. (1981 Code, § 11-2101, modified)

14-1702. Incorporation by reference. Said code is hereby adopted and incorporated by reference as fully as if set out at length herein. Not less than three copies of the code has been and is now on file in the office of the city clerk of Millington, Tennessee. (1981 Code, § 11-2102, modified)

## CHAPTER 18

TRAILER COACH PARKS

## SECTION

- 14-1801. Parking of trailers restricted.
- 14-1802. Definitions.
- 14-1803. License required.
- 14-1804. Application for and issuance of license.
- 14-1805. Trailer coach park plan generally.
- 14-1806. Park location.
- 14-1807. Water supply.
- 14-1808. Sanitation facilities.
- 14-1809. Laundry facilities.
- 14-1810. Sewage disposal.
- 14-1811. Refuse containers.
- 14-1812. Fire protection.
- 14-1813. Animals and pets.
- 14-1814. Register of occupants.
- 14-1815. Enforcement of chapter.
- 14-1816. Annual permit fee.

14-1801. Parking of trailers restricted. Trailers shall not be parked on any public thoroughfare, streets, alley or public place in the City of Millington, Tennessee, for longer than one hour when no emergency for repairs exists. (1981 Code, § 5-101)

14-1802. Definitions. For the purposes of this chapter the following words and phrases shall have the meanings indicated:

- (1) "Dwelling." A house, apartment building, or other permanent building designed or used primarily for human habitation.
- (2) "Natural or artificial barrier." Any river, pond, canal, railroad, levee, embankment, fence or hedge.
- (3) "Park." A trailer coach park.
- (4) "Person." Any natural individual.
- (5) "Trailer coach." Any portable structure or vehicle so constructed and designed as to permit occupancy thereof for dwelling or sleeping purposes.
- (6) "Trailer coach park." Any plot of ground upon which two or more trailer coaches, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.
- (7) "Trailer coach space." A plot of ground within a trailer coach park designed for the accommodation of one trailer coach.
- (8) "Dependent trailer coach." A trailer coach which does not have a toilet and bath or shower.

(9) "Independent trailer coach." A trailer coach that has a toilet and a bath or shower.

(10) "Dependent trailer coach space." A trailer coach space which is designed to accommodate a dependent trailer coach and does not have sewer and water connections to accommodate a toilet and a bath or shower in a trailer coach.

(11) "Independent trailer coach space." A trailer coach space which has sewer and water connections designed to accommodate the toilet and bath or shower contained in an independent trailer.

(12) "Director of health and sanitation." The term "director of health and sanitation" shall mean the director of health and sanitation of the City of Millington or his authorized representatives, and shall also include in its definition the Director of the Memphis and Shelby County Health Department or his authorized representatives. (1981 Code, § 5-102)

14-1803. License required. It shall be unlawful for any person to maintain or operate within the corporate limits of the City of Millington, Tennessee, any trailer coach park unless such person shall first obtain a license therefor and in all other respects comply fully with the requirements of this chapter. The license shall be posted in a conspicuous place in the park and shall not be transferable. (1981 Code, § 5-103)

14-1804. Application for and issuance of license. (1) The application for a trailer coach park license shall be in writing, signed by the applicant, and shall contain the following:

(a) The name and address of the applicant.

(b) The location, and legal description of the trailer coach park.

(c) A complete plan of the park showing compliance with the requirements of this chapter.

(d) Plans and specifications of all buildings and other improvements constructed or to be constructed within the trailer coach park.

(e) Such further information as may be requested by the building inspector to enable him to determine if the proposed park will comply with legal requirements.

(2) The application and all accompanying plans and specifications shall be filed in triplicate with the building inspector. The building inspector, the health officer and the mayor shall investigate the applicant and inspect the proposed plans and specifications. If the applicant is found to be of good moral character, and if the proposed trailer coach park will be in compliance with all provisions of the chapter and all other applicable ordinances or statutes, the building inspector shall approve the application and upon completion of the park according to the plans shall issue the license. (1981 Code, § 5-104)

14-1805. Trailer coach park plan generally. Each trailer coach park shall conform to the following requirements:

(1) The park shall be located on a well-drained site which is properly graded to insure rapid drainage and freedom from stagnant pools of water.

(2) Trailer coach spaces shall be provided that are a minimum 35 feet in width and clearly defined. Trailer coaches shall be placed on each space so as to provide a minimum 10-foot front yard, a minimum 7 1/4-foot rear yard, and that a minimum space between trailer coaches and/or their additions be 15 feet. No trailer coach shall be located closer than 50 feet from a dwelling nor closer than 10 feet from any property line bounding the park.

(3) All trailer coach spaces shall abut upon a driveway of not less than thirty feet in width which shall have unobstructed access to a public street, alley or highway. All driveways shall be lighted at night with 150-watt lamps at intervals of 100 feet and located approximately 15 feet from the ground.

(4) Walkways of not less than 3 feet in width shall be provided from the trailer coach spaces to the service buildings. The walkways shall be lighted at night with 75-watt lamps at intervals of 100 feet and located approximately 15 feet above ground.

(5) Electrical outlets supplying both 110 volts and 220 volts shall be provided at the rear of each trailer space.

(6) Telephone lines and connections shall be provided at the rear of each trailer coach lot.

(7) All lines crossing roadways must be 15 feet above crown of said roadway. (1981 Code, § 5-105)

14-1806. Park location. Trailer coach parks shall be located only in a trailer coach park zone. (1981 Code, § 5-106)

14-1807. Water supply. An adequate supply of water under pressure, from a source and of a quality approved by the Tennessee Department of Public Health, shall be provided. Where possible, approved municipal water supplies shall be used. Water shall be piped to each trailer lot. There shall be a water outlet in each shower room, wash room, laundry room and sink and night waste container washing facility. (1981 Code, § 5-107)

14-1808. Sanitation facilities. Each park shall be provided with toilets, baths or showers, slop sinks and other sanitation facilities which shall conform to the following requirements:

(1) Toilet facilities for men and women shall be either in separate buildings at least twenty (20) feet apart or shall be separated, if in the same building, by a soundproof wall.

(2) Toilet facilities for women shall consist of not less than one (1) flush toilet for every ten (10) dependent trailer coach spaces, one (1) shower or bath tub for every ten (10) dependent trailer coach spaces, and one (1) lavatory

for every twenty (20) dependent trailer coach spaces. Each toilet, shower and bath tub shall be in a private compartment.

(3) Toilet and urinal facilities for men shall consist of not less than one (1) flush toilet for every fifteen (15) dependent trailer coach spaces, one (1) shower or bath tub for every ten (10) dependent trailer coach spaces, and one (1) lavatory for every ten (10) dependent trailer coach spaces. Each toilet, shower and bath tub shall be in a private compartment.

(4) A dependent trailer coach may be parked on an independent trailer coach space, but in such event such space shall be regarded as being a dependent trailer coach space during the period of such occupancy by a dependent trailer coach for the purpose of determining compliance with the provisions of subsections 2 and 3 of this section.

(5) Service buildings housing the toilet facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations, and plumbing and sanitation systems, and shall be located not closer than ten (10) feet nor farther than 150 feet from any dependent trailer coach space.

(6) Each service building shall contain at least one slop sink for each sex located in a separate compartment.

(7) The service buildings shall be well lighted at all times of the day and night, and shall be well ventilated with screened openings, shall be constructed of such moisture-proof material, including painted woodwork, as shall permit repeated cleaning and washing, and shall be maintained at a temperature of at least 68 degrees Fahrenheit during the period from October 1 to May 1. The floor of the service building shall be of water impervious material and shall slope to a floor drain connected with the sewerage system.

(8) All service buildings, trailers, trailer coach spaces and the grounds of the park shall be maintained in a clean and sightly condition and shall be kept free of any conditions that will menace the health of any occupant or the public or constitute a nuisance. (1981 Code, § 5-108)

14-1809. Laundry facilities. The laundry facilities shall be provided in the ratio of one double laundry tub and ironing board for every twenty (20) trailer coach spaces. An electrical outlet supplying current sufficient to operate an iron shall be located conveniently near the ironing board. Drying spaces shall be provided sufficient to accommodate the laundry of the trailer coach occupants. The service building housing the laundry facilities shall be a permanent structure complying with all applicable ordinances and statutes regulating buildings, electrical installations, and plumbing and sanitation systems. (1981 Code, § 5-109)

14-1810. Sewage disposal. Waste from showers, bath tubs, toilets, slop sinks and laundries shall be discharged into a public sewer system in compliance with applicable ordinances or into a private sewage disposal plant or septic tank system in such manner as to conform to the specifications of the



health officer. All kitchen sinks, washbasins, showers and bath tubs in any trailer coach harbored in any park shall empty into the sanitary sink drain located on the trailer coach space. (1981 Code, § 5-110)

14-1811. Refuse containers. Each park shall provide such number of refuse containers as shall be necessary for the sanitary storage of refuse for collection. Such containers shall be constructed and maintained in accordance with the provisions of title 17 in this code. (1981 Code, § 5-111)

14-1812. Fire protection. Every park shall be equipped at all times with a fire extinguisher in good working order for every twenty (20) trailer coach spaces. It shall be located not further than 200 feet from any trailer coach space. No open fire shall be permitted at any place which would endanger life or property. No fires shall be left unattended at any time. (1981 Code, 5-112)

14-1813. Animals and pets. No owner or person in charge of any dog or cat or other pet animal shall permit it to run at large or commit any nuisance within the limits of any trailer coach park. (1981 Code, § 5-113)

14-1814. Register of occupants. It shall be the duty of the licensee to keep a register containing a record of all trailer coach owners and occupants located within the park.

(1) The register shall contain the following information:

(a) Name and address of each occupant.

(b) Make, model and year of all automobiles and trailer coaches.

(c) License number and owner of each trailer coach and automobile by which it is towed.

(d) State issuing such licenses.

(e) Dates of arrival and departure of each trailer coach.

(2) The park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three years following the date of registration. (1981 Code, § 5-114)

14-1815. Enforcement of chapter. The health officer shall make periodic inspections of the park to assure compliance with this chapter. In case of noncompliance with any provisions of this chapter, the health officer shall notify the licensee. Thereafter upon failure of the licensee to remedy said violation, the health officer shall recommend to the board of mayor and aldermen the revocation of the offending park's license. The board shall hold a hearing on the matter, and, upon a determination of noncompliance, shall revoke said license. The license may be reissued if the circumstances leading to the revocation have been remedied and the park may thereafter be operated in full compliance with the law. (1981 Code, § 5-115)

14-1816. Annual permit fee. Before a license is issued pursuant to § 14-1803, the licensee shall pay an annual permit fee, as follows: Three dollars (\$3.00) for each space, said permit to designate the number of spaces approved, provided that the minimum fee shall be thirty-seven dollars and fifty cents (\$37.50), and the maximum fee shall be three hundred dollars (\$300.00). This fee shall be due on July 1 of each fiscal year for a twelve-month period, and shall be delinquent and no license issued unless paid by July 31 of each year. (1981 Code, § 5-116)

## CHAPTER 19

WELLHEAD PROTECTION OVERLAY DISTRICT

## SECTION

- 14-1901. Statutory authorization, findings of facts, purpose and objectives.
- 14-1902. Definitions.
- 14-1903. Authority and applicability.
- 14-1904. Extent and designations.
- 14-1905. Use regulations.
- 14-1906. Variance regulations.
- 14-1907. Site plan submission and administrative requirements.
- 14-1908. Enforcement and penalties.

14-1901. Statutory authorization, findings of facts, purpose and objectives. (1) Statutory authorization.

(a) Section 42 USC 300H-7 of the Federal Safe Drinking Water Act mandates that every state develop a wellhead protection program to protect public water supplies which utilize a groundwater source. Tennessee's statewide program was established by the adoption of § 1200-5-1-34 of the Tennessee Rules and Regulations for Public Water Systems, (the "Rules"), under the authority granted in Tennessee Code Annotated, §§ 68-221-704 and 4-5-202.

(b) The Legislature of the State of Tennessee in Tennessee Code Annotated §§ 13-7-201 through 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(2) Findings of fact. (a) The city owns and operates a Public Water System ("PWS").

(b) The rules require that wellhead protection areas be established by each PWS, known as Zone 1 and Zone 2.

(c) Wellhead protection areas have been established for the Millington PWS and approved by the Tennessee Department of Environment and Conservation ("TDEC") in November, 1995 (the "Wellhead Protection Areas").

(d) The city desires to bring all proposed land-use activities in the wellhead protection areas into conformance with the wellhead protection guidelines developed by TDEC.

(e) Wellhead protection areas, Zone 1 is an area immediately surrounding the water sources, which represents an eight (8) week capture zone and within which land-use activities are prohibited and/or restricted in order to protect the well or source of ground water.

(f) Wellhead protection areas, Zone 2 is an area incorporating and adjacent to wellhead protection area, Zone 1, which represents a forty (40) year capture zone that is determined on the basis of groundwater

direction and recharge, and within which land-use activities are prohibited and/or restricted in order to protect the well or source of groundwater.

(g) Possible contaminant sources have been identified within the wellhead protection areas, and a potential contaminant source inventory has been compiled so that a safe potable water supply may be provided now and for future generations.

(3) Statement of purpose. It is the purpose of this chapter to protect the public, municipal water supply the city from land uses which pose a threat to the quality and quantity of the groundwater being extracted from the city's municipal wells within the land areas described as wellhead protection areas.

(4) Objectives. The objectives of this chapter are to:

(a) Protect human life and health.

(b) Insure that the citizens and institutions that are customers of the city's water system are provided with a safe potable water supply now and for future generations.

(c) Prevent the contamination of groundwater resources.

(d) Prevent excessive extraction of the groundwater resources.

(e) Restrict or prohibit land-use activities that store, handle, or produce regulated substances.

(f) Require the use of best management practices (regulatory and non-regulatory) for the protection of future groundwater sources of drinking water.

(g) Identify the responsibilities of the city, as the local governmental unit, and the city planning commission and the board of zoning appeals, as the responsible agents for the city, in protecting groundwater resources.

(h) Provide a mechanism for the city to work with neighboring communities to safeguard areas extending into other jurisdictions.

(i) Minimize expenditure of public funds for pollution remediation projects.

(j) Minimize regulations of land use.

(k) Minimize business interruptions.

(l) Minimize damage to public facilities and utilities such as water mains, sewer lines, and treatment facilities.

(m) Protect the natural resources of the state. (As added Ord. #1998-7, June 1998)

14-902. Definitions. Unless specifically defined below, words and phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

For purposes of interpreting, administering and enforcing this chapter, the words and phrases defined below shall have the meaning assigned in this section:

(1) "Aquifer." A geologic formation, portion thereof, or group of formations (including overlying unconsolidated material) which contains and is capable of yielding a sufficient quantity of ground water to serve as a domestic or public water supply or other use.

(2) "Base zoning district." The zoning districts set out in Title 14, Chapter 3 of the Millington Municipal Code.

(3) "Best management practices." Operational procedures for handling, storage and disposal of regulated substances and procedures which are designed to minimize the impact of certain activities or land uses on groundwater quality and quantity.

(4) "Board of zoning appeals." The city's board of zoning appeals.

(5) "Building permit." The permit required by the city for construction, occupation, and use of a building within its municipal limits.

(6) "Certificate of conformance." A document issued by the city engineer which certifies that a proposed use meets or exceeds the requirements of the wellhead protection plan.

(7) "Construction." Building, erecting, moving, excavation, filing, paving, or any physical operations on a premises.

(8) "Contaminant." A substance of such nature, quality and quantity as to cause degradation of the quality of groundwater. Reference: Tennessee Rule 1200-4-9-01, Water Well Licensing.

(9) "Contaminant source inventory." The inventory compiled by the city of the sources within the wellhead protection areas with the potential to contaminate the groundwater.

(10) "Contamination." The act of introducing into water foreign materials of such nature, quality and quantity as to cause degradation of the quality of the water. Reference: Tennessee Rule 1200-4-9-01, Water Well Licensing.

(11) "Excessive extraction." A non-municipal withdrawal of groundwater from an aquifer that results in or may result in the lowering of the water level or piezometric surface to such an extent as to interfere with the normal operation of existing private, industrial or municipal water wells, or withdrawal from an aquifer which will lead to desaturation of the aquifer or desaturation to a point where consolidation of the aquifer material occurs, preventing any further recharge of the aquifer from occurring.

(12) "Ground water." Any water of the state as defined in Tennessee Code Annotated, § 69-3-103 (Tennessee Water Quality Control Act), occurring below the surface of the ground not contained by artificial barriers.

(13) "Ground water contamination." Presence of any substance designated by the United States Environmental Protection Agency (EPA) or the State of Tennessee as a primary or secondary water quality parameter, in excess of the maximum allowable contaminate level (MCL) or as regulated under the Primary Drinking Water Standards of the Safe Drinking Water Act.

(14) "Ground Water Institute (GWI)." The research organization within the Herff College of Engineering at the University of Memphis which serves as a center of expertise in ground water science for the mid-south area.

(15) "Hazardous material." A material which is included in one or more of the following categories.

(a) "Ignitable." A gas, liquid, or solid which may cause fires through friction, absorption of moisture, or which has low flash points. Examples: white phosphorous and gasoline.

(b) "Carcinogenic." A gas, liquid, or solid which is normally considered to be cancer causing or mutagenic. Examples: PCBs in some waste oils.

(c) "Explosive." A reactive gas, liquid, or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure, or combinations thereof. Examples: dynamite, organic peroxides, and ammonium nitrate.

(d) "Highly toxic." A gas, liquid, or solid so dangerous to man as to afford an unusual hazard to life. Examples: parathion and chlorine gas.

(e) "Moderately toxic." A gas, liquid, or solid which, through repeated exposure or in a single large dose, can be hazardous to humans. Examples: atrazine.

(f) "Corrosive." Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.

(16) "Local government unit." The city.

(17) "Percolation rate." The rate at which water flows or trickles through porous soils, as determined by a percolation test.

(18) "Pollutant travel time." The time required by pollutants to travel from one point to another.

(19) "Potable water." Water that is satisfactory for drinking, culinary, and domestic purposes, meeting current state and federal drinking water standards.

(20) "Regulated substance." A substance for which there are federal, state and/or local regulations governing its use, storage, and/or disposal.

(21) "Responsible agent." The city planning commission (the "planing commission").

(22) "Shelby County Ground Water Quality Control Board." The regulatory board consisting of appointed individuals which has jurisdiction within Shelby County to manage Wellhead Protection Guidelines developed by TDEC pertaining to the protection of the public water supplies which utilize ground water sources within the boundaries of Shelby County.

(23) "Storm water drainage." A sewer or other system for conveying surface runoff due to storm events and unpolluted groundwater or surface

water, including that collected by cellar drains, but excluding sanitary sewage and industrial waste.

(24) "Surface runoff." That part of the precipitation that passes over the surface of the soil to the nearest surface stream without first passing beneath the surface.

(25) "Tennessee Department of Environment and Conservation (TDEC)." The state agency authorized by EPA to adopt and enforce section 1428 of the 1986 Amendments to the Federal Safe Drinking Water Act, mandating the protection of public water supplies which utilize a ground water source.

(26) "Travel time contour." Locus of points from which water takes an equal amount of time to reach a given destination such as a well or wellfield.

(27) "Wastewater." Any combination of water carried wastes from institutional, commercial and industrial establishments, and residences together with any storm, surface water, or groundwater as may be present.

(28) "Water table." The upper surface of a zone of saturation except where that surface is formed by an impermeable barrier.

(29) "Well, abandoned." An abandoned or unused well shall be defined under one or more of the following:

(a) A well, other than a monitoring well, which has been out of service continuously for one year or more and does not meet the definition of an inactive well.

(b) A monitoring well from which no measurement or sample has been taken for a period of three years.

(c) A well which is in such a state of disrepair that it cannot be made operational for its intended purpose.

(d) A test hole or exploratory boring 24 hours after construction and testing work has been completed.

(e) A cathodic protection well that is no longer functional for its original purpose.

(f) Any boring intended for the construction of a well that cannot be satisfactory completed.

(30) "Well, active." An active well is a well that has been utilized at least once in the preceding 12 months for the extraction of groundwater and has all applicable licenses, permits and approvals.

(31) "Well, inactive." An inactive well or standby well means a well that has not been used for a period of one year or more for the production of groundwater, but is maintained in such a condition that it could be so used, or a monitoring well maintained for such use, or a cathodic protection well maintained for such use and has all applicable licenses, permits and approvals.

(32) "Wellfield." A tract of land, either contiguous or disjointed, which contains a number of existing or proposed wells for supplying water as specified in the Wellfield Protection Map.

(33) "Wellfield Area of Contribution." Area of an aquifer where ground water flow is diverted to a pumping well due to a lowering of the water table.

(34) "Wellfield Protection Map." A map showing the areas of the City designated as wellhead protection areas, Zone 1 and Zone 2, which represent eight (8) week and forty (40) year capture zones, respectively; and within which land-use activities are prohibited and/or restricted in order to protect a well, or source of groundwater.

(35) "Wellfield Recharge Area." The area from which groundwater flows directly to the wellfield area of contribution.

(36) "Wellhead." The specific location of the source area for water which is withdrawn from a well or spring.

(37) "Wellhead Protection area." The areas of the city designated as wellhead protection areas, Zone 1 and Zone 2, which represent eight (8) week and forty (40) year capture zones, respectively; and within which land-use activities are prohibited and/or restricted in order to protect a well, or source of groundwater.

(38) "Wellhead Protection Overlay District." An overlay district on the existing zoning districts which represents the area covered by wellhead protection areas, Zone 1 and Zone 2.

(39) "Wellhead Protection Overlay Map." A map generated by the city illustrating the location of wellhead protection areas, Zone 1 and Zone 2. Such map is incorporated on the City of Millington's Official Zoning map.

(40) "Zone of Contribution." The area from which groundwater flows to an active well. (As added by Ord. #1998-7, June 1998)

14-1903. Authority and applicability. (1) Application.

(a) The wellhead protection overlay district, shall be deemed an overlay on the application zoning districts, and shall be shown on published maps entitled "Millington Zoning Map." In the wellhead protection overlay district, the regulations set forth in this chapter shall apply, unless superseded by a more stringent regulation of the base zoning district.

(b) The regulations set forth in this chapter shall apply to all land uses and activities located or proposed within the area delineated as the wellhead protection area in the city on a map available for inspection at the office of the building inspector, and as defined in the definitions section of this chapter. The wellhead protection area consists of wellhead protection area Zone 1 and wellhead protection area Zone 2, identified in § 14-1902, for the city municipal wells.

(c) The Millington Wellhead Protection Overlay map shall be available for inspection at the office of the building inspector.

(d) The planning commission, as the responsible agent for the city, shall review all development plans within the wellhead protection area and review any other related matters that may arise in the administration of this chapter. The board of zoning appeals shall make any necessary interpretation of wellhead protection areas, Zone 1 and Zone 2.



(2) Basis for establishing the wellhead protection area. (a) The rules require that every Public Water System (PWS) in the state set up a two-zone protection system for its groundwater source.

(b) The city, utilizing the groundwater flow model presented by the GWI, has established a two-zone protection system for the city's groundwater resources.

(3) Requirement for development permit. Prior to site plan approval by the planning commission, the applicant shall obtain a "Certificate of Conformance" with the wellhead protection overlay district chapter, from the city engineer in a timely manner, of all proposed land-use activities in wellhead protection areas, Zone 1 and Zone 2 within the city.

If, upon review of the site plan, the city engineer determines that additional information is necessary to completely evaluate the proposed development, the city engineer may defer the development plan to the Shelby County Ground Water Quality Control Board (SCGWQCB) for review and recommendation prior to approval of the plan for a "Certificate of Conformance."

A certificate of conformance shall be required prior to the commencement of any development activity.

(4) Compliance. No structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the city; and

(c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(6) Interpretation of wellhead protection area. Where interpretation is needed as to the exact location of any boundary of wellhead protection area, Zone 1 and Zone 2, the city board of zoning appeals shall make the necessary interpretation.

The planning commission shall be responsible for review of all development plans within wellhead protection areas, and other related matters that may arise in the administration of this chapter.

A person contesting the location of the wellhead protection area shall be afforded reasonable opportunity before the board of zoning appeals to present any technical evidence he may wish to support his position. Any proposed adjustments shall be based on the same modeling techniques defined in Zone 1 and Zone 2 reports approved by TDEC (November 1995) and the latest approved delineation of Zone 1 and Zone 2 by TDEC. The board of zoning appeals shall not consider any application for a variance from the provisions of this chapter until the planning commission has had an opportunity to review the application and make a written recommendation to the board of zoning appeals. The planning commission shall have forty-five (45) working days from the filing of any application, for a variance from this chapter, to review and issue its

recommendation. The application shall be advertised for public hearing for the next regularly scheduled board of zoning appeals meeting following the expiration of the forty-five (45) day period.

(7) Warning and disclaimer of information. The levels of wellhead protection required by this chapter are considered reasonable for regulatory purposes and are based on scientific and engineering considerations approved by tdec. This chapter does not imply that land protected under this chapter within the wellhead protection areas shall be free from contamination or excessive extraction. This chapter shall not create liability on the part of the city, on any officer or employee thereof, of the GWI, or and member, officer or employee of the SCGWQCB for any damages to groundwater resources that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Conflict with other provisions. (a) The requirements of wellhead protection area, Zone 1 and Zone 2, are in addition to those contained in the basic base zoning districts.

(b) Where any conflicts exist between the provisions of this chapter and any other ordinance or regulation of the city, these provisions shall govern; provided, however, that these provisions shall not be construed as permitting any use which is prohibited or permitted only as a special exception within the base zoning district.

(9) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. (As added by Ord. #1998-7, June 1998)

14-1904. Extent and designations. (1) Extent of wellhead protection area. The wellhead protection area consists of two (2) areas, Zone 1 and Zone 2 which are listed and described below:

Wellhead protection area Zone 1 extends approximately one hundred (100) foot radially from the wellhead, representing an eight (8) week capture zone that is determined on the basis of groundwater flow direction and recharge.

Wellhead protection area Zone 2 extends from the wellhead and includes Wellhead Protection Area Zone 1 and the forty (40) year capture zone that is determined on the basis of groundwater flow direction and recharge.

(2) Wellhead protection area delineation. Boundaries for the Wellhead Protection Area zones for the Wellhead Protection Overlay Districts are shown on published maps entitled “Millington Wellhead Protection Overlay Map” and are hereby adopted by reference as part of this chapter as if the maps were fully described herein. The Millington Wellhead Protection Overlay Map is incorporated on to the Official Zoning Map for the City of Millington

The boundaries of wellhead protection areas are based on the predicted groundwater flow pattern in the vicinity of city wellfields.

(3) Delineation methodology. Wellhead protection area delineation shall be based on the approved TDEC methodology.

(4) Amendment of Wellhead Protection Area. The wellhead protection areas shall be reviewed and modified annually by the planning commission of the city, at the beginning of each calendar year, and the Millington Wellhead Protection Overlay Map shall be revised accordingly.

Every three (3) years changes shall be made to Millington Wellhead Protection Overlay Map to show the location of new wells, update the contaminant source inventory, adopt better modeling techniques and incorporate recent and more accurate hydrogeologic data.

(5) Location of properties. In determining the location of properties within the wellhead protection areas, Zone 1 and Zone 2, depicted on Millington Wellhead Protection Overlay Map, the following rules shall apply:

(a) Properties located wholly within one (1) zone reflected on Millington Wellhead Protection Area Overlay Map shall be governed by the restrictions applicable to that particular zone.

(b) For properties having parts lying within more than one (1) zone as reflected on the wellhead protection area overlay map, individual areas of said property shall be governed by the restrictions applicable to the zone in which that part of the property is located.

(c) Where a time-traveler contour which delineates the boundary between two zones of influence passes through a building, the entire building shall be considered to be in that zone with the greatest restrictions as of the date of the enactment of this chapter.

(d) Where any capture zone extends beyond the corporate limits of the city, the portion of the capture zone within the adjacent municipality or county, per prior agreement between the subject municipality or county, the city shall review any proposed or existing land use utilizing this chapter. (As added by Ord. #1998-7, June 1998)

14-1905. Use regulations. (1) Permitted uses. (a) Within the wellhead protection districts, the permitted uses and regulations shall be those of the base zoning district.

(b) Permitted uses are allowed in the base zone, subject to the procedures and restrictions in the base zone, and subject to the following additional limitations and restrictions:

(i) Permitted uses or changes in use or the enlargement and alteration of permitted uses existing as of the effective date of this chapter and permitted outright in the base zone are permitted in the wellhead protection overlay district when no substances are used, produced by, or commonly associated with the activity which, in the event of introduction of a large quantity thereof into the groundwater, might cause, materially contribute to, or create a material risk of, any adverse effect upon the city's municipal water source.

(ii) In order to justify a change in permitted uses or the enlargement and alteration of permitted uses for a property, or portion of a property in a wellhead protection overlay district, a study shall be prepared under the supervision of a Tennessee-registered professional engineer trained and experienced in hydrogeology, to examine the impact of the use upon the city's municipal water source, under reasonably possible hydrologic or geologic conditions. Technological evidence shall be based on the modeling techniques defined in Wellhead Protection Area, Zone 1 and Zone 2 reports, approved by TDEC (November 1995). The report from the study shall be submitted to the city engineer.

(iii) To assure that the quality of groundwater shall be maintained, a groundwater monitoring program shall be established as part of the report prepared pursuant to subparagraph (ii) above. The program shall establish the number of wells to be installed, as well as the duration and frequency regarding the monitoring of the wells to be installed. All laboratory test results shall be submitted to the city engineer in order to assure the city that satisfactory water is maintained.

(c) Storage of fuel and lubricants for vehicle operations in conjunction with permitted uses shall be either in above ground storage tanks meeting EPA regulations for such facilities or underground storage tanks meeting the requirements of this chapter.

(d) Underground storage tanks located in wellhead protection area, Zone 2, shall meet all EPA regulations for underground storage tanks and be double wall with monitoring of the space between the tank walls. All piping shall be double wall. Ground water monitoring shall be as per the current EPA regulation for underground storage tanks and shall include one monitoring well in the excavation where the tank is located. All monitoring results for underground storage tanks in a wellhead protection area, Zone 2, (Ground Water, product, vapor space, etc.), shall be provided to the city engineer and the building inspector on a monthly basis.

(2) Prohibited uses. (a) Uses prohibited in the base zoning district are also prohibited in the wellhead protection overlay districts.

(b) the following uses are prohibited in the wellhead protection overlay district, even if they are allowed by right in the base zoning district:

(i) Manufacturing and production of hazardous materials, excluding production for on-site usage only. These materials include:

(ii) Any hazardous substance or hazardous waste as listed in the following federal regulations:

(A) Superfund Amendments and Reauthorization Act (SARA) of 1986, Section 302 Extremely Hazardous Substances List (40 Code of Federal Regulations (C.F.R.) 300, App. A and B);

(B) Comprehensive Environmental Response Compensation and Liability Act Superfund (CERCLA) of 1980, Hazardous Substances List (40 C.F.R. 302, Table 302.4);

(C) SARA of 1986, Section 313, Toxic Chemicals List (40 C.F.R. Section 372.45); and

(D) Resources Conservation and Recovery Act (RCRA) of 1976 and 1984 Amendments, Hazardous Wastes List (P and U Categories) (40 C.F.R. Section 261.33 (e) and (f)).

Note: The lists referenced in section (2)(b), are summarized on the Title III List of Lists - Chemicals Subject to Reporting Under Title III of the Superfund Amendments and Reauthorization Action (SARA) of 1986, published July 1987, U.S. EPA.

(E) Nuclear or radioactive materials or wastes.

(iii) Storage of regulated substances other than fuel and lubricants for vehicle operations in conjunction with permitted and conditional uses.

(iv) Underground storage tanks shall not be allowed in Zone 1 areas.

(3) Special exemptions and limited exclusions to prohibited uses.

(a) Any and all requests to delete a use from the contaminant source list or to allow a use conditionally, other than those authorized below, shall be accompanied by a study as required in § 14-1905 (1)(b)(ii), using technology based on the modeling techniques defined in wellhead protection area, Zone 1 and Zone 2 Reports approved by TDEC, November 1995 edition. The request and all support documents shall be submitted to the city engineer.

(b) Exclusions from the provisions of this chapter are authorized for:

(i) Fire, police, emergency medical services, emergency management center facilities, and public utilities of this chapter.

(ii) Transportation of any regulated substances through wellhead protection area, Zone 1, provided the transporting vehicle is in continuous transit.

(iii) Storage of fuel and lubricants for vehicle operations, either in above ground storage tanks meeting EPA regulations for such facilities or underground storage tanks meeting the requirements of this chapter (See § 14-1905(1)(d)).

(iv) Office supplies that are used solely for the operation of on-site administrative offices, provided such supplies are prepackaged in a form ready for use.

(v) Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.

(vi) Geotechnical borings.

(vii) Residential activities.

(viii) Public utility emergency generating facilities above ground, except that permanently installed fuel storage facilities shall meet EPA regulations for such facilities.

(c) Use of pesticides, herbicides and fungicides in recreational, agricultural, pest control and aquatic weed control activities shall be allowed provided that:

(i) The use is in strict conformity with the requirements of all applicable federal, state and local regulations, and as directed by the manufacturers of said substances.

(ii) The use of the substance is flagged in the records of the certified operator supervising the use.

(iii) The certified operator provides specific notification in writing to the applicators under his or her supervision that they are working at a site located in a wellhead protection area, Zone 1, for which particular care is required.

(iv) Records are kept of the date and amount of the substance used at each location and said records are made available for inspection by the city.

(v) The substance is not handled during use in a quantity exceeding seven hundred (700) gallons of formulation.

(d) The use of pesticides, herbicides and fungicides in recreational, agricultural, pest control and aquatic weed control activities on nonresidential landscape areas smaller than five thousand (5,000) square feet shall be exempted from the provisions of this chapter.

(e) The use of pesticides, herbicides and fungicides in recreational, agricultural, pest control and aquatic weed control activities. However, commercial, government, institutional services, or the railroad in all zones shall not be required to obtain individual licenses for every site at which they use the regulated substances, and these services shall be exempt from the provisions of this chapter with regard to the sites they serve provided the use is in accordance with (i), (ii) and (iii) above.

(f) Use, storage, handling and/or production of a regulated substance, associated with non-routine maintenance or repair of property or equipment, shall be limited to:

(i) The aggregate of regulated substances in use, storage, handling and/or production not to exceed fifty (50) gallons or four hundred (400) pounds at any time; and

(ii) The total use, storage, handling and/or production of regulated substances not to exceed one hundred (100) gallons or eight hundred (800) pounds in any twelve (12) month period.

(g) A regulated substance associated with medical and research laboratory use shall be stored, handled, or used in containers not to exceed five (5) gallons or forty (40) pounds of each substance and the aggregate inventory of all regulated substances shall not exceed two hundred fifty (250) gallons or two thousand (2,000) pounds.

(h) A regulated substance which is a cleaning agent shall be packaged for personal or household use or be present in the same form and concentration as a product packaged for use by the general public. The aggregate inventory of such cleaning agents shall not exceed one hundred (100) gallons or eight hundred (800) pounds at any time. In no case shall regulated substances claimed under this exclusion include hydrocarbon or halogenated hydrocarbon solvents.

(i) A regulated substance associated with construction for which a permit has been issued, paving or the pouring of concrete shall be excluded from regulation while present on the construction site, provided such regulated substances do not pose a real and present danger of contaminating surface and/or groundwater.

(j) Use of regulated substances in conjunction with municipal water supply, and treatment activities shall not be restricted in this chapter.

(k) Storage of regulated substances in conjunction with municipal water supply and treatment activities shall not be restricted by this chapter.

(l) Use of regulated substances in conjunction with public parks, playgrounds, golf courses and community centers shall be in accordance with the city's parks and recreation maintenance plan and shall not be restricted by this chapter.

(m) The city may at its option delete in whole or in part, any of the above described exemptions, but in no case shall the city include any additional exemptions, in the chapter adopted, pursuant to this section, unless otherwise approved by the board of mayor and aldermen.

(4) Nonconforming uses. (a) Non-conforming uses may continue in the wellhead protection overlay district in the form in which they exist at the time of the adoption of this chapter. Any change of title or right to possession shall not affect such continuation of an existing use. Whenever a non-conforming use has been abandoned for a period of six (6) months, such use shall not thereafter be re-established and any future use shall only be in compliance with the provisions of this chapter. In the event such non-conforming use shall pose a

direct hazard to the public water supply, the city may take any action permitted by law to abate the hazard.

(b) An addition or expansion of the non-conforming use does not increase the non-conforming of the use or activity.

(c) The expansion of the non-conforming use may not be for the purpose of changing that use to another non-conforming use unless the applicant can demonstrate that the new use poses a lesser threat to groundwater than the current use.

(d) Non-conforming uses presently utilizing underground storage tanks for fuel and lubricants for vehicle operations shall be permitted to replace existing tanks with those constructed as per the specifications of § 14-1905 (1)(d), and not exceeding the capacity of existing tanks.

(e) All permitted uses, may be approved by the planning commission, special exemptions and limited exclusions may be approved by the board of zoning appeals, provided such uses meet the performance standards outlined for the wellhead protection overlay district. (As added by Ord. #1998-7, June 1998)

14-1906. Variance regulations. The provisions of this section shall apply exclusively to areas of wellhead protection overlay districts. In applying for a variance, the following conditions apply:

(1) Board of zoning appeals. (a) The board of zoning appeals shall hear and decide appeals and requests for variances from the requirements of this chapter. The board of zoning appeals shall not consider any application for a variance from the provisions of this chapter until the planning commission has had an opportunity to review the application and make a written recommendation to the board of zoning appeals.

(b) Variances may be issued for the use of property within the city's corporate limits, upon a determination from the board of zoning appeals that the proposed use will not cause, materially contribute to, or create a material risk of any adverse effect upon the city's municipal water source under reasonably possible hydrologic or geologic conditions. All technological evidence shall be based on the modeling techniques defined in wellhead protection area, Zone 1 and Zone 2 reports, approved by TDEC (November 1995).

(c) In reviewing a variance application, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter; and

(i) The practical difficulty and hardship on the property owner related to the use and enjoyment of the property caused by the regulation or restriction as enacted within the wellhead protection areas, Zone 1 and Zone 2.



(ii) An allegation that there is an error in any requirements, decision or determination made by the planning commission in the enforcement or administration of this chapter.

(d) The board of zoning appeals may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter.

(e) In reviewing a variance application, the board of zoning appeals shall consider the recommendation of the Shelby County Ground Water Quality Control Board.

(2) No variance may be requested nor granted as a means to circumvent the intentions of this chapter or as a remedy for a violation of this chapter. (As added by Ord. #1998-7, June 1998)

14-1907. Site plan submission and administrative requirements.

(1) Prior to the issuance of a building permit all site plan requirements as set forth in §14-1201 shall be submitted for review by the planning commission. If approved, any modifications required by the planning commission shall be made prior to the issuance of a building permit. The site plan shall be maintained in the permanent files of the City of Millington.

(2) In addition to the site plan requirements set forth in § 14-1201, site plans for developments within wellhead protection overlay zones shall also include the following:

(a) Location of all existing public water supply wells within 1,000 feet.

(b) Location of wellhead protection Zone 1 and Zone 2 area within five hundred (500) feet of property.

(c) Location of septic tanks (including size and capacity) and/or sewage lift stations, forcemains and grease traps.

(d) Provide the regulations used to control the uses permitted in the project and the uses specifically prohibited.

(e) Provide a complete list of the types and volumes of all hazardous materials (including fuels) used, stored, processed, handled or disposed, other than those volumes and types associated with normal household use.

(f) Provide a description of the types of wastes generated and method of disposal including: solid wastes, hazardous wastes, sewage and non-sewage wastewater discharges.

(g) Provide plans and documents containing information to show compliance with the performance standards of this chapter.

(h) Provide other additional information as may be required by reviewing agencies regarding: the proposed use, its potential impact to water quality, hydrogeologic information, monitoring and mitigation measures. (As added by Ord. #1998-7, June 1998)

14-1908. Enforcement and penalties. (1) Applicant's responsibility. It shall be the responsibility of any person owning real property and/or owning or operating a business within the corporate limits of the city to make a determination of the applicability of wellhead protection area overlay districts to the property and/or business under his or her ownership or operation, and such owner's failure to do so shall not excuse any violations of this chapter.

(2) Injunctive relief. If any person who engages in nonresidential activities stores, handles, uses, and/or produces toxic substances listed in 40 Code of Federal Regulations (CFR) Part 116 (designation of hazardous substances) of the Federal Water Pollution Control Act, within the zone of contribution, as indicated on Millington Wellhead Protection Overlay Map, without having obtained a certificate of conformance as provided for herein or continues to operate in violation of the provisions of this chapter, the city may file an action for injunctive relief in the circuit court.

(3) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguard established in connection with grants of variance or special exception, shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city from taking other lawful actions to prevent or remedy any violation. (As added by Ord. #1998-7, June 1998)

**CHAPTER 20****STORMWATER MANAGEMENT AND POLLUTION CONTROL****SECTION**

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**14-2001. Objectives.** The objectives of "the ordinance adopting new title 14, chapter 20 of the Millington Municipal Code Stormwater Management and Pollution Control" are:

- (1) To protect public health, safety and general welfare.
- (2) To eliminate any non-allowable discharges to the city's MS4 that adversely impact water quality.
- (3) To provide for the sound use and development of all flood-prone areas in such a manner as to maximize beneficial use without increasing flood hazard potential or diminishing the quality of the natural stormwater resources.
- (4) To provide for sound fiscal management of the community and maintain a stable tax base by providing appropriate fees and other dedicated funding sources for the administration of the watershed management program.
- (5) To increase the awareness of the public, property owners and potential homebuyers regarding stormwater impacts (i.e. flooding, erosion).
- (6) To minimize prolonged business interruptions.
- (7) To minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, storm and sanitary sewer lines; and streets and bridges.
- (8) To promote a functional public and private stormwater management system that will not result in excessive maintenance costs.
- (9) To encourage the use of natural and aesthetically pleasing design that maximizes preservation of natural areas.
- (10) To promote the use of comprehensive watershed management plans.
- (11) To encourage preservation of floodplains, floodways and open spaces.
- (12) To encourage community stewardship of the City of Millington's water resources.
- (13) It is further the purpose of this chapter to enable the City of Millington to comply with the NPDES permit and applicable regulations (at 40 CFR 122.32-35) for stormwater discharges. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2002. Conflict.** All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict. If any provisions of this chapter and

any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2003. Severability.** If any provision of this chapter or its application to any person, entity, or property is held invalid, the remainder of the chapter or the application of the provision to other persons or property shall not be affected. Should any article, section, subsection, clause or provision of chapter be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section clause and provision being declared severable. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2004. Jurisdiction.** The provisions of this chapter apply to the incorporated areas of the City of Millington. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2005. Enactment.** This chapter shall take effect upon adoption, the public welfare requiring the it. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2006. Definitions.** For the purpose of this chapter, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this article its most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the word "may" is permissive.

(1) "Accidental discharges" means a discharge prohibited by this chapter into the City of Millington's MS4 that occurs by chance and without planning or consideration prior to occurrence.

(2) "Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, structural and non-structural practices, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control runoff pollutants, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(3) "Clean Water Act" or "the Act" means the Federal Water Pollution Control Act, as amended, codified at 33 U.S.C. 1251 et. seq.

(4) "Commercial" means property devoted in whole or part to commerce, that is, the exchange and buying and selling of commodities or services. The term shall include, by way of example, but not be limited to the following businesses: amusement establishments, animal clinics or hospitals, automobile service stations, automobile dealerships for new or used vehicles, automobile car washes, automobile and vehicular repair shops, banking establishments, beauty and barber shops, bowling alleys, bus terminals, and repair shops, camera shops, dental offices or clinics, day care centers, department stores, drug stores, funeral homes, furniture stores, gift shops, grocery stores, hardware stores, hotels, jewelry stores, laboratories, laundries, and dry cleaning establishments, liquor stores, medical offices and clinics, motels, movie theaters, office buildings, paint stores or shops, parking lots, produce markets, professional offices, radio stations, repair establishments, retail stores, television stations and production facilities, theaters, truck or construction equipment service stations, truck or construction equipment dealerships for new or used vehicles, truck or construction equipment washing facilities and truck or construction equipment repair shops.

(5) "Construction activity" shall mean any clearing, grading, excavating, or equipment usage that will result in the disturbance of the land surface and is subject to stormwater permit requirements under the State of Tennessee general permit for stormwater discharges associated with construction activity. The term shall not include:

(a) Such minor construction activities as home gardens and individual home landscaping, home repair, home maintenance work and other related activities that result in minor soil erosion;

(b) Individual service and sewer connections for single- or two-family residences;

(c) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pasture land, forestry land management practices including harvesting, farm ponds, dairy operations, and livestock and poultry management practices and the construction of farm buildings;

(d) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

(e) Installation, maintenance, and repair of any underground public utility lines when such activity occurs in an existing hard surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard surfaced and a street, curb, gutter or sidewalk permit has been obtained, and if such area is less than one (1) acre of disturbance.

(6) "Critical design storm" means the design storm specified in the City of Millington's Drainage Design Manual.

(7) "Development" means any activity subject to the Tennessee General Permit for Construction Activities.

(8) "Director" means the City of Millington Director of Public Works.

(9) "Erosion Prevention and Sediment Control (EPSC) plan" means a written plan, including drawings or other graphic representations, that is designed to minimize the erosion and sediment runoff at a site during construction activities.

(10) "Hot spot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas and restaurants.

(11) "Illicit Discharge" is defined at 40 CFR § 122.26(b)(2) and refers to any discharge to a municipal separate storm sewer that is not entirely composed of stormwater, except discharges authorized under an NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from firefighting activities.

(12) "Impervious" means not allowing the passage of water through the surface of the ground or ground covering or a substantial reduction in the capacity for water to pass through the surface of the ground or ground covering.

(13) "Industrial facility" is a business engaged in industrial production or service, that is, a business characterized by manufacturing or productive enterprise or a related service business. This term shall include but not be limited to the following: apparel and fabric finishers, automobile salvage and junk yards, blast furnace, blueprint and related shops, boiler works, cold storage plants, contractor's plants and storage facilities, foundries, furniture and household goods manufacturing, forge plants, greenhouses, manufacturing plants, metal fabrication shops, ore reduction facilities, planing mills, rock crushers, rolling mills, saw mills, smelting operations, stockyards, stone mills or quarries, textile production, utility transmission or storage facilities, truck or construction equipment salvage or junkyards, warehousing, and wholesaling facilities.

(14) "Institutional" means an established organization, especially of a public or charitable nature. This term shall include, by way of example, but not be limited to, the following: churches, community buildings, colleges, day care facilities, dormitories, drug or alcohol rehabilitation facilities, fire halls, fraternal organizations, golf courses and driving ranges, government buildings, hospitals, libraries, kindergartens, or preschools, nursing homes, mortuaries, schools, social agencies, synagogues, parks and playgrounds.

(15) "Land disturbing activity" means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited

to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(16) "Manager" means the stormwater management administrator who is designated to supervise the operation of the stormwater management program and who is charged with certain duties and responsibilities by this chapter, or his/her duly authorized representative.

(17) "Multi-family residential" means an apartment building or other residential structure built for three (3) or more units or lots under common ownership, and condominiums of three or more units.

(18) "National Pollutant Discharge Elimination System" or "NPDES permit" means a permit issued pursuant to 33 U.S.C. chapter 26 Water Pollution Prevention and Control, Subchapter IV Permits and Licenses, section 1342.

(19) "Notice of Intent" or "NOI" means a written notice by the discharger to the Commissioner of the Tennessee Department of Environment and Conservation, or his designee, that a person wishes his discharge to be authorized under a general permit authorized by state law or regulation.

(20) "Person" means any individual, partnership, corporation, limited liability company, firm, company, trust estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

(21) "Regional facility" means a stormwater management facility designed to serve more than two properties and one hundred (100) or more acres of drainage area. A regional facility typically includes a stormwater pond.

(22) "Redevelopment" means the alteration of developed land that disturbs one (1) acre or more, or less than an acre if part of a larger common plan of development, and increases the site or building impervious footprint, or offers a new opportunity for stormwater controls that the permittee would like to identify. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse stormwater quality impacts.

(23) "Significant spills" Releases of oil or hazardous substances in excess of reportable quantities under section 311 of the Clean Water Act (at 40 CFR 110.10 and CFR 117.21) or section 102 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), (at CFR 302.4).

(24) "Stormwater" is defined at 40 CFR § 122.26(b)(13) and means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

(25) "Stormwater management facility" means a stormwater management control device, structure, or system of such physical components designed to treat, detain, store, convey, absorb, conserve, protect, or otherwise control stormwater.



(26) "Stormwater management" means the collection, conveyance, storage, treatment and disposal of stormwater in a manner to meet the objectives of this chapter and its terms, including, but not be limited to measures that control the increase volume and rate of stormwater runoff and water quality impacts caused or induced by man made changes to the land.

(27) "Stormwater Management Manual (SWMM)" means the guidance document adopted for use by the City of Millington to supplement the current "City of Millington Drainage Design Manual." The SWMM provides the technical standards and information necessary for proper design and construction of stormwater management facilities and the management of stormwater management infrastructure as defined in § 14-2025.

(28) "Stormwater Management Plan" or "SWMP" is a written compilation of the elements of the stormwater management program. It is considered a single document, even though it actually consists of separate stand-alone components. It includes the set of drawings and other documents that comprise all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques for the City of Millington and as part of this chapter.

(29) "Stormwater pollution prevention plan" is a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP shall be prepared in accordance with the TDEC EPSC Handbook or local BMP Manual, whichever is more stringent and protective of waters of the state. The handbook is designed to provide information to planners, developers, engineers, and contractors on the proper selection, installation, and maintenance of BMPs. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations.

(30) "Stormwater sewer system" means the network of conveyances and storage facilities that collect, detain, absorb, treat, channel, discharge, or otherwise control the quantity and quality of stormwater.

(31) "Stream" means a surface water that is not a wet weather conveyance (Tennessee Code Annotated, § 69-3-10. (40)) Streams include linear watercourses, lakes, ponds, and wetlands.

(32) "Toxic pollutant" means any pollutant or combination of pollutants listed as toxic in 40 CFR part 401 promulgated by the Administrator of the Environmental Protection Agency under the provisions of 33 U.S.C. 1317.

(33) "Variance" means the modification of the minimum stormwater management requirements contained in this chapter and the stormwater

management plan for specific circumstances where strict adherence of the requirement would result in unnecessary hardship and not fulfill the intent of this chapter.

(34) "Waters of the state" or "waters" is defined in the Tennessee Water Quality Control Act and means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine to effect a junction with natural surface or underground waters.

(35) "Water quality" means characteristics that are related to the physical, chemical, biological, and/or radiological integrity of stormwater.

(36) "Watershed management program" means a balanced program and plan of controlling the quantity and quality of water resources through comprehensive land and water resource management. Such management includes but is not limited to pollution control, land development controls, best management practices both structural and non-structural, preservation, habitat protection, and well head protection. This program incorporates the state's NPDES stormwater quality permit program

(37) "Watershed master plan" means the guidance vehicle for implementing the watershed management program.

(38) "Waterway buffer" or "buffer zone" or "water quality riparian buffer" is a strip of dense undisturbed perennial native vegetation, either original or re-established, that borders streams and rivers, ponds and lakes, wetlands and seeps. Buffer zones are established for the purposes of slowing water runoff, enhancing water infiltration and minimizing the risk of any potential sediments, nutrients or other pollutants from leaving the upland area and reaching surface waters. Buffer zones are established for the primary purpose of protecting water quality and maintaining a healthy aquatic ecosystem in receiving waters.

(39) "Wet weather conveyance" means, notwithstanding any other law or rule to the contrary, man-made or natural watercourses, including natural watercourses that have been modified by channelization:

- (a) That flow only in direct response to precipitation runoff in their immediate locality;
- (b) Whose channels are at all times above the groundwater table;
- (c) That are not suitable for drinking water supplies; and

In which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow there is not sufficient water to support fish, or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2007. Abbreviations.** (1) "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act in its original form or as amended.

- (2) "CFR" - Code of Federal Regulations.
- (3) "FEMA" - Federal Emergency Management Agency.
- (4) "MS4" - Municipal Separate Storm Sewer System means the City of Millington separate stormwater system both natural and manmade as may be subject to the NPDES Stormwater Permit for The City of Millington.
- (5) "SWPPP" - Stormwater Pollution Prevention Plan.
- (6) "TCA" - Tennessee Code Annotated (latest version).
- (7) "TNCGP" - Tennessee Construction General Permit.
- (8) "TMSPP" - Tennessee Multi-Sector Permit (TMSPP) for Stormwater Discharges Associated with Industrial Activity (See Section 135).
- (9) "USACE" - means United States Army Corps of Engineers.
- (10) "U.S.C." - means United States Code. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2008. Illicit discharges; unauthorized discharge a public nuisance.** Discharge of stormwater in any manner in violation of this chapter; or any violation of any condition of a permit issued pursuant to this chapter; or any violation of any condition of a stormwater discharge permit issued by the State of Tennessee Department of Environment and Conservation is hereby declared a public nuisance and shall be corrected or abated. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2009. Improper disposal and illicit discharges.** (1) It shall be unlawful for any person to improperly dispose or discharge any contaminant into the City of Millington MS4. Contaminants include, but are not limited to the following:

- (a) Trash or debris;
- (b) Construction materials;
- (c) Petroleum products including but not limited to oil, gasoline, grease, fuel oil, or hydraulic fluids;
- (d) Antifreeze and other automotive products;
- (e) Metals in either particulate or dissolved form;
- (f) Flammable or explosive materials;
- (g) Radioactive material;
- (h) Batteries, including but not limited to, lead acid automobile batteries, alkaline batteries, lithium batteries, or mercury batteries;
- (i) Acids, alkalis, or bases;
- (j) Paints, stains, resins, lacquers, or varnishes;
- (k) Degreasers and/or solvents;

- (l) Drain cleaners;
- (m) Pesticides, herbicides, or fertilizers;
- (n) Steam cleaning wastes;
- (o) Soaps, detergents, or ammonia;
- (p) Swimming pool backwash including chlorinated swimming pool discharge;
- (q) Chlorine, bromine, and other disinfectants;
- (r) Heated water;
- (s) Animal waste from commercial animal or feeder lot operations;
- (t) Any industrial and sanitary wastewater, including leaking sewers or connections;
- (u) Recreational vehicle waste;
- (v) Animal carcasses;
- (w) Food wastes;
- (x) Medical wastes;
- (y) Collected lawn clippings, leaves, branches, bark, and other fibrous materials;
- (z) Collected silt, sediment, or gravel;
- (aa) Dyes, except as stated in subsection (2)
- (bb) Chemicals, not normally found in uncontaminated water;
- (cc) Any hazardous material or waste, not listed above;
- (dd) Washing of fresh concrete for cleaning and/or finishing purposes or to expose aggregates.
- (ee) Junk motor vehicles, as defined in subsection (3)
- (ff) Liquid from solid waste disposal containers.

Penalties for minor discharges that have no significant adverse impact on safety, health, the welfare of the environment, or the functionality of the city's stormwater collection system may be waived at the discretion of the manager.

(2) Dye testing. Dye testing is allowed but requires verbal notification to the manager a minimum of twenty-four (24) hours prior to the date of the test. The City of Millington and Shelby County governmental agencies are exempt from this requirement.

(3) Junk motor vehicles, definition thereof. "Junk motor vehicle" means any vehicle which shall include by way of example but not be limited to the following vehicle types:

Automobiles, construction equipment, motorcycles, and trucks, which meets all of the following requirements:

- (a) Is three (3) or more years old;
- (b) Is extensively damaged, such damage including, but not limited to any of the following: broken window or windshield or missing wheels, engine or transmission;
- (c) Is apparently inoperable;
- (d) Is without a valid current registration;

(e) Has a fair market value equivalent only to the value of the scrap in it. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2010. Exceptions, allowable discharges.** The following types of discharges shall not be considered prohibited discharges for the purpose of this chapter unless the stormwater manager determined that the type or quantity of discharge, whether singly or in combination with others, is causing significant contamination of the City of Millington's MS4.

- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows ("Stream" as defined by Tennessee Code Annotated, § 69-3-103(40), a surface water that is not a wet weather conveyance);
- (4) Rising ground water;
- (5) Uncontaminated ground water infiltration (Infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow);
- (6) Uncontaminated pumped ground water;
- (7) Discharges from potable water sources;
- (8) Air conditioning condensate;
- (9) Irrigation water;
- (10) Springs;
- (11) Water from crawl space pumps;
- (12) Footing drains;
- (13) Lawn watering;
- (14) Individual residential car washing;
- (15) Flows from riparian habitats and wetlands;
- (16) Dechlorinated swimming pool discharges;
- (17) Street wash water;
- (18) Discharges or flows from firefighting activities;
- (19) Dye testing permitted by the State of Tennessee or the City of Millington;
- (20) Other types of discharges as determined by the stormwater manager. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2011. Illicit connection.** Any connection, existing or future, identified by the manager, as that which could convey anything not composed entirely of stormwater directly to the City of Millington MS4 is considered an illicit connection and is prohibited with the following exceptions:

(1) Connections conveying allowable discharges as defined in § 14-2009.

(2) Connections conveying discharges pursuant to an NPDES permit (other than an NPDES stormwater permit).

Existing illicit connections must be stopped, at owner's expense. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2012. Monitoring and inspection.** (1) Monitoring. The manager shall periodically monitor compliance of the stormwater NPDES permit holder.

(2) Detection of illicit connections and improper disposal. The manager shall take appropriate steps to detect and eliminate illicit connections to the City of Millington's MS4, including the adoption of programs to identify illicit discharges and their source or sources and provide for public education, public information and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials and household hazardous waste.

(3) Inspections. (a) The manager or his designee, bearing proper credentials and identification, may enter and inspect properties for inspections, investigations, monitoring, observation, measurement, enforcement, sampling and testing, to effectuate the provisions of this chapter, the stormwater management plan, and/or the NPDES stormwater permit. The manager or his designee shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.

(b) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas wherein no objection is raised. The inspector shall immediately report the refusal and the circumstances to the manager. The manager may seek appropriate action.

(c) In the event the manager or his designee reasonably believes that discharges into the City of Millington's MS4 may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon request by the owner or representative.

At any time during the conduct of an inspection or at such other times as the manager or his designee may request information from an owner or representative, the owner or representative may identify areas of the facility or establishment, material or processes which contains or may contain a trade secret. If the manager or his designee has no clear and convincing reason to question such identification, the inspection report shall note that trade secret information has been omitted. To the extent practicable, the manager shall

protect all information that is designated as a trade secret by the owner or their representative. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 ***Ch16\_6-29-20***, and Ord. #2020-17, Oct. 2020 ***Ch17\_01-09-23***)

**14-2013.--14-2021. Reserved.** (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 ***Ch16\_6-29-20***, and Ord. #2020-17, Oct. 2020 ***Ch17\_01-09-23***)

**14-2022. Construction activity and erosion prevention and sediment control; construction activity.** All construction activity, defined below, shall be in compliance with all applicable requirements under this article.

If one (1) or more acres of land are disturbed or planned to be disturbed as part of a larger plan by construction activity, an application shall be applied for under the "State of Tennessee's General Permit for stormwater discharges associated with construction activity." The State of Tennessee utilizes a "notice of intent" for dischargers to obtain coverage under the general permit program for discharges associated with construction activities. These documents are subject to change and amendment and therefore the user should obtain the latest versions directly from the State of Tennessee Department of Environment and Conservation, Division of Water Pollution Control. These may be obtained at the state's web page: [www.tn.gov/environment](http://www.tn.gov/environment).

If a Tennessee General NPDES permit is applied for, a copy of the notice of intent (NOI) shall be sent by certified mail, hand delivered or as directed by the manager to the manager of the stormwater management section at least thirty (30) days prior to the commencement of construction activities (i.e. the initial disturbance of soils associated with clearing, grading, excavating, or other construction activities). A copy of the NOI shall also be available for inspection by the manager or manager's representative on the construction site at all times during which construction activities are in progress. To seek coverage under the Tennessee Department of Environment and Conservation general permit, the NOI shall be submitted to the following address:

Tennessee Department of Environment and Conservation  
Division of Water Pollution Control  
Memphis Environmental Field Office  
ATTN: Stormwater NOI Processing  
8383 Wolf Lake Drive,  
Bartlett, TN 38133-4119

The copy of the NOI should be sent to the following address:

Stormwater Manager  
7930 Nelson Road

Millington, TN 38053 (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 ***Ch16\_6-29-20***, and Ord. #2020-17, Oct. 2020 ***Ch17\_01-09-23***)

**14-2023. Construction activity, regulated.** (1) An erosion prevention and sediment control plan shall be developed for all land disturbance activities, regardless of size.

(2) It shall be unlawful for any person to permit any discharge of stormwater from a construction activity or land disturbance activity from land owned or controlled by them on a total land area of one (1) or more acres disturbed by construction activity or less than one (1) acre if part of a larger common plan of development of at least one (1) acre, without a general permit for stormwater discharges associated with construction activity from the Tennessee Department of Environment and Conservation, with a copy of the Notice of Intent (NOI) provided to the stormwater management section at the same address listed in § 14-2022.

(3) Exempted construction activity: The following activities may be undertaken without formal notice; however, the persons conducting these excluded activities shall remain responsible for otherwise conducting those activities in accordance with the provisions of this chapter and other applicable law including responsibility for controlling sedimentation and runoff.

(a) Such minor construction activities as home gardens and individual home landscaping, home repairs, home maintenance work and other related activities that result in minor soil erosion;

(b) Individual service and sewer connections for single- or two-family residences;

(c) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pastureland, forestry land management practices including harvesting, farm ponds, dairy operations, and livestock and poultry management practices;

(d) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

(e) Installation, maintenance, and repair of any underground public utility lines when such activity occurs in an existing hard surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard surfaced and a street, curb, gutter or sidewalk permit has been obtained;

(4) SWPPP/BMP requirements: The BMPs for controlling erosion and sedimentation from construction activities and land disturbing activities shall meet the design storm and special conditions requirements of the latest Tennessee Construction general permit (TN CAP). The minimum standards for these practices shall be consistent with the latest version of the Tennessee Erosion and Sediment Control Handbook as developed and amended from time to time by the Tennessee Department of Environment and Conservation.

The specific application of BMP practices is subject to approval of the manager. A copy of the Stormwater Pollution Prevention Plan (SWPPP)



required by applicable construction permits shall be provided to the manager as a part of the approval process. Approval of the construction project will be subject to a favorable review by the city engineer, the manager and the Tennessee Department of Environment and Conservation.

(5) **Construction site requirements:** Litter, construction debris and construction chemicals exposed to stormwater shall be picked up prior to storm events or before being carried off of the site by wind so that they do not become a pollutant source for stormwater discharges. Erosion prevention and sediment control materials (e.g., silt fence) should be removed or otherwise prevented from becoming a pollutant source for stormwater discharges. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2024. Compliance with permits.** Construction shall only be allowed when permitted by applicable construction permits and when construction plans have been approved by the manager, when deemed appropriate by the building official and/or the manager. The manager or designee may stop construction on properties, or administer other enforcement actions as defined in this chapter that do not have adequate erosion prevention and sedimentation control measures. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2025. Reserved.** (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2026. Stormwater management infrastructure; infrastructure, defined.** Stormwater management infrastructure consists of the entire physical system of stormwater management both publicly and privately owned. This system consists of both man made and natural components as well as rivers, streams, creeks, lakes, reservoirs, ponds, springs, wetlands, wells and including features defined by the State of Tennessee as "waters of the state." (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2027. Policy statements for development.** Minimum standards and procedures for the design, construction, operation, and maintenance of the stormwater management infrastructure shall be set forth in the City of Millington Stormwater Management Manual as may be adopted and amended from time to time. Such adoption or amendment shall be by resolution of the board of mayor and aldermen. A copy of the stormwater management manual will be maintained on file in the offices of the manager. Until such time as this document is prepared and adopted, the City of Millington's "Drainage Design

Manual" as it exists at the final adoption of this chapter, located in the manager's office shall be used. The following general policy statements shall apply:

(1) All development within the corporate limits of Millington, Tennessee, shall be subject to the provisions of this ordinance.

(2) Proposed plans for construction shall be stamped by a professional engineer licensed in the State of Tennessee. This shall include all proposed improvements or modifications to the existing or new stormwater infrastructure, erosion prevention and sediment control practices, and other related improvements or modifications.

(3) A record plan, certified by a licensed professional engineer as appropriate, must be submitted in a format acceptable to the manager upon completion of the public or private stormwater management facility. The licensed professional shall certify that: the facilities have been constructed in substantial and essential conformance to the design plan.

(4) Each individual project shall be evaluated for consistency with the adopted watershed master plan, when available, for the major watershed or watersheds within which the project site is located. The individual project evaluation will determine if stormwater quantity and quality management practices can adequately serve the property and limit impacts to downstream public and private properties. The presence of a regional facility(s) will be considered in determining the extent to which quantity and/or quality controls will be necessary.

(5) In the absence of such a stormwater quantity and/or quality master plan, a system of uniform requirements shall be applied to each individual project site. In general, these uniform requirements may be based on the criterion that post-development stormwater peak runoff, and water quality must not differ significantly from pre-development conditions.

(6) Development will be permitted in the floodplain; however, the developer may be required by the manager to demonstrate "no adverse impact" on upstream or downstream facilities, uses, residences, or related structures. (For example, this may be shown by modification of the USACOE/FEMA model by applying full upstream development criteria and new cross-sections reflecting the development and depiction of the elevations of all structures, facilities, etc., within the impacted upstream or downstream floodplain.)

(7) Under no circumstances shall a site be graded or drained in such a way as to increase surface runoff to sinkholes, "dry wells" or "drainage wells."

(8) The City of Millington encourages regional watershed management practices and facilities. These practices will be encouraged in order to replace or reduce the implementation of on-site stormwater management facilities.

(9) Development of properties containing existing on-site stormwater management facilities may be permitted, at the discretion of the city engineer or stormwater manager, provided the property and downstream public and

private properties, infrastructure or "waters of the state" are adequately protected from adverse stormwater impacts.

(10) Erosion or sedimentation, or transport of other pollutants or forms of pollution, due to various land development activities must be controlled.

(11) Soil bioengineering, "green" and other "soft" slope and stream bank stabilization methods are encouraged over rip-rap, concrete and other hard armoring techniques. The use of greenway rights-of-way for appropriate properties is encouraged.

(12) Buffer zone requirements. (a) Construction sites - state minimum requirements: A minimum thirty foot (30') natural riparian buffer zone adjacent to all streams at any construction site requiring a State Construction general permit (CAP) shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state, located within or immediately adjacent to the boundaries of the project, as identified using methodology from standard operating procedures for hydrologic determinations (see rules to implement a certification program for qualified hydrologic professionals, TN Rules chapter 0400-40-17). Buffer zones are not primary sediment control measures and should not be relied on as such. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction or redevelopment sites. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The minimum thirty feet (30') criterion for the width of the buffer zone may be established by variance on an average width basis at a project, as long as the minimum width of the buffer zone is more than fifteen feet (15') at any measured location.

(b) Buffer zone additional requirements for discharges into impaired or exceptional Tennessee waters - state minimum requirements: A sixty foot (60') natural riparian buffer zone adjacent to the receiving stream designated as impaired or exceptional Tennessee waters shall be preserved, to the maximum extent practicable, during construction activities at any site. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') feet at any measured location.

(13) A permanent waterway buffer shall be applied to all major waterways serving more than one hundred (100) acres of tributary area or as specified in the stormwater management manual. The minimum buffer width shall be two hundred feet (200') feet extending from the top of bank of streams and/or one hundred feet (100') from the edge of the normal pool for impoundments, ponds, lakes, and wetlands. Reductions, exemptions or modifications to this requirement may be approved subject to proper technical

justification and approval by the city engineer. No new construction of any building or structure shall be permitted in the buffer except as may be permitted by the city engineer and supported with adequate technical and environmental analysis and appropriate mitigation measures. For example, mitigation strategies may include:

- (a) Publicly dedicated greenways;
- (b) Restoration of impacted waterways with bioengineering or "green" approaches;
- (c) New and innovative technologies are applied to address water quantity or quality;
- (d) Modification to density, trees or other development requirements acceptable to the city engineer and planning departments. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2028. Infrastructure maintenance.** It shall be the responsibility of the property owner of record for the maintenance of stormwater infrastructure. Maintenance of stormwater infrastructure shall consist at minimum but not be limited to the following items: outlet cleaning, mowing, herbicide spraying, litter control, removal of sediment from basin and outlet control structures, and repair of drainage structures. All such activities will be conducted in an environmentally sound manner and consistent with applicable codes, rules, and standards. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2029. Maintenance responsibility-privately owned infrastructure.** (1) Any stormwater management facility, including buffers, that is privately owned shall receive general routine maintenance (i.e. controlling vegetative growth, removing sediment and debris) provided for by the owner(s).

(2) The owner(s) shall maintain a perpetual right of access for inspection and emergency access by the City of Millington. The city has the right, but not the duty, to enter premises for inspection and emergency repairs.

(3) Any stormwater management facility that services commercial and industrial development shall be maintained.

(4) Maintenance requirements may also be prescribed by a site-specific agreement between the owner or operator and the City of Millington. These agreements shall be based on an approved site design, a stormwater pollution prevention plan, an inspection program, a long-term maintenance plan, an emergency repair plan, easements, and proof or surety of financial responsibility.

(5) If privately owned infrastructure is not maintained, the manager may assess a fine on the private owner(s) as detailed in the enforcement and

abatement portion of this chapter. Such a fine will be used for cost recovery, to abate damages, and to restore impacted areas. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2030. Maintenance responsibility--publicly owned infrastructure.** (1) All regional stormwater management control facilities proposed by the owners, if approved by the City of Millington Board of Mayor and Aldermen and accepted by the manager for dedication as a public regional facility shall be publicly owned and/or maintained.

(2) All other stormwater management control facilities shall be publicly owned and/or maintained only if accepted for maintenance by the City of Millington. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2031.--14-2035. Reserved.** (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2036. Stormwater discharges from regulated industrial sources; purpose.** It is the purpose of this chapter to control stormwater runoff from industrial sources in order to minimize, to the maximum extent practicable, pollutants discharged from industrial sources into the City of Millington's MS4. This reduction may be achieved by a combination of management practices, control techniques, system design, engineering methods and plan review. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2037. Industry, defined.** An industrial facility is one defined as industry by EPA rule, or subject to the Tennessee Multi-Sector Permit (TMSP) for stormwater discharges associated with industrial activity. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2038. Right of inspection, defined.** Whenever necessary to make any inspection to enforce any provision of the stormwater management ordinance, or whenever an official of the City of Millington has reasonable cause to believe that there exists on a site any condition or code violation, the official may enter the site to inspect the same or perform any related duties imposed by this ordinance. If the site is occupied, the official will first make a reasonable effort to locate the person in charge or having control, present identification and request entry. If entry is denied to the site, the official shall have recourse to

every remedy provided by the law to secure entry. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2039. Availability of information on discharger to public; use of information accepted as confidential.** All information and data on a discharger obtained from reports, questionnaires, permits, monitoring programs, and from inspections shall be available to the public without restriction unless the discharger specifically requests confidential treatment and is able to demonstrate to the satisfaction of the approving authority that the release of such information would divulge information regarding processes or methods which would be detrimental to the discharger's competitive position. Information accepted by the approving authority as confidential shall not be transmitted to the general public by the approving authority unless written permission has been obtained from the discharger or under court order. Any report, questionnaire or other item required to be submitted by the discharger that contains such confidential data will be submitted in duplicate with one (1) version containing the information and the second copy showing the information deleted that has been claimed as confidential. To the extent practicable, the manager shall protect all information that is designated as confidential by the owner or their representative. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2040. Information required.** The State of Tennessee utilizes a "notice of intent" for dischargers to obtain coverage under the general permit program for discharges associated with industrial activities. These documents are subject to change and amendment and therefore the user should obtain the latest versions directly from the State of Tennessee Department of Environment and Conservation, Division of Water Pollution Control. These may be obtained at the state's web page: [www.tn.gov/environment](http://www.tn.gov/environment). All industries subject to the TMSPP and discharging into the City of Millington storm sewer system shall maintain a copy of the Stormwater Pollution Prevention Plan (SWPPP) on the industrial site, available for inspection and copying at reasonable times by the manager. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2041. Stormwater Pollution Prevention Plan (SWPPP) requirements.** The Stormwater Pollution Prevention Plan (SWPPP) must follow, at a minimum, the outline of the plan listed in the Tennessee multi-sector permit language or a facility's NPDES stormwater permit language, whichever is applicable. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2042. Sampling at industrial facilities.** (1) Samples of stormwater collected for compliance monitoring shall be representative of the discharge. Sampling locations will be those defined in the Tennessee multi-sector permit or an NPDES permit. Sampling and analyses shall be in accordance with 40 CFR part 122.21 and 40 CFR part 136 and/or applicable permit language.

(2) Samples that may be taken by the manager and/or his designated representatives for the purpose of determining compliance with the requirements of this chapter or rules adopted hereunder may be split with the discharger if requested before the time of sampling.

(3) The manager may require a stormwater discharger to install and maintain at the discharger's expense a suitable manhole or sampling facility at the discharger's facility or suitable monitoring access to allow observation, sampling, and measurement of all stormwater runoff being discharged into the city storm sewer system. Sampling manhole or access shall be constructed in accordance with plans approved by the manager and shall be designed so that flow measurement and sampling equipment can be installed. Access to the manhole or monitoring access shall be available to the manager and/or his designated representatives at all times. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2043. Reporting.** (1) Any facility required to sample under either the TMSP or an NPDES stormwater permit shall provide a copy of the monitoring report to the manager.

(2) The manager may require reporting by dischargers of stormwater runoff to the stormwater system, where an NPDES stormwater permit is not required, to provide information. This information may include any data necessary to characterize the stormwater discharge. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2044. Accidental discharges.** In the event of a "significant spill" as defined in "definitions" or any other discharge which could constitute a threat to human health or the environment, the owner or operator of the facility shall give notice to the manager and the local field office of the Tennessee Department of Environment and Conservation as required by state and federal law following the accidental discharge.

If an emergency response by governmental agencies is needed, the owner or operator should also call the Millington Fire Department, and when Millington Fire Department operations protocol dictates the Memphis and Shelby County Emergency Management Agency, immediately to report the discharge. A written report must be provided to the manager within five (5) days of the time the discharger becomes aware of the circumstances, unless this

requirement is waived by the manager for good cause shown on a case-by-case basis, containing the following particulars:

(1) A description of the discharge, including an estimate of volume.  
 (2) The exact dates, times and duration of the discharge.  
 (3) Steps being taken to eliminate and prevent recurrence of the discharge, including any planned modification to contingency, SWPPP or maintenance plans.

(4) A site drawing should be rendered that shows the location of the spill on the impacted property, the direction of flow of the spill in regards to the topographical grade of the property, the impacted watercourse(s), and the property or properties adjacent to the spill site.

(5) The discharger shall take all reasonable steps to minimize any adverse impact to the City of Millington's MS4, including such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge. The interruption of business operations of the discharger shall not be a defense in an enforcement action necessary to maintain water quality and minimize any adverse impact that the discharge may cause.

(6) It shall be unlawful for any entity, whether an individual, residential, commercial or industrial entity to fail to comply with the provisions of this section. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2045. Fraud and false statements.** Any reports required by this chapter or rules adopted hereunder and any other documents required by the city to be submitted or maintained by the discharger shall be signed by a responsible corporate official and certified as accurate to the best of their personal knowledge after appropriate investigation. It shall be subject to the enforcement provisions of this chapter and any other applicable local and state laws and regulations pertaining to fraud and false statements. Additionally, the discharger shall be subject to the provisions of 18 U.S. Code § 309 of the Clean Water Act, as amended, governing false statements and responsible corporate officials. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2046. Reserved.** (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2047. Enforcement and abatement; administrative remedies.** The enforcement remedies enumerated herein shall be applicable to all articles of this chapter. The City of Millington's "Stormwater Enforcement Response Plan" provides guidance related to enforcement of both City and State



ordinances with respect to stormwater in the City of Millington. The plan document addresses the following items.

(1) Notice of alleged violation. Prior to the issuance of a Notice of Violation (NOV), the manager may order any person who causes or contributes, or may be a cause or contributor, to a violation of a of stormwater permit or order issued hereunder to show cause why a proposed enforcement action not be taken. A Notice of Alleged Violation (NAV) shall be served on the person, specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the person show cause why this proposed enforcement should not be taken. The NAV and notice of the meeting shall be served personally or by registered or certified mail, with return receipt, and postmarked at least ten (10) business days prior to the hearing. Such notice may be served on any person, principal executive, general partner, corporate officer, or other person with apparent authority to receive such notice.

(2) Notification of violation. Whenever the manager finds any permittee or person discharging stormwater, or other pollutants into the City of Millington's MS4 or otherwise, has violated or is violating this chapter, conditions of a stormwater permit, or order issued hereunder, the manager or his agent may serve upon said user written NOV. This notice shall be by personal service, or registered or certified mail with return receipt. Within ten (10) days of the receipt date of this notice, the recipient of this NOV shall provide the stormwater manager with a written explanation of the violation. The response shall also include a plan for satisfactory correction and prevention thereof, to include specified required actions and milestones for their completion. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation. If the City of Millington deems it necessary a complaint may be filed with the Commissioner of the Tennessee Department of Environment and Conservation pursuant to Tennessee Code Annotated (T.C.A) § 69-3-118.

(3) Consent order. The stormwater manager is hereby empowered to enter into consent agreements, assurances of voluntary compliance, or other similar documents establishing an agreement with the person or persons responsible for the non-compliance. Such agreements will include specific action to be taken by the permittee or person discharging stormwater to correct the non-compliance within a time period specified by the agreements. Consent orders shall have the same force and effect as compliance orders issued pursuant to paragraph (5) below.

(4) Show cause hearing. The stormwater manager is hereby empowered to order a person who violates the stormwater ordinance or a permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. A notice for this hearing must be served on the person specifying the time and place for the meeting, the proposed enforcement action, the reasons for the proposed enforcement action and a request for the violator to show cause why this proposed enforcement action should not be taken. The

meeting notice must be either served personally or delivered by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

(5) Compliance order. When the stormwater manager finds that any person has violated or continues to violate this chapter or any order issued hereunder, he may issue an order to the violator directing that, following a specified time period, adequate structures and/or devices be installed or procedures implemented and properly operated or followed. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the non-compliance, including the construction of appropriate structures, installation of devices, self-monitoring and related management practices.

(6) Cease and desist orders. When the stormwater manager finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder and such action or inaction has or may have the potential for immediate and significant adverse impact on the MS4 or the stormwater discharges to it, the manager may issue an order to cease and desist all such violations immediately and direct those persons in non-compliance to:

(a) Comply forthwith; or

(b) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(c) Anyone receiving a cease and desist order that includes instruction to halt operations shall receive an expedited review and appeal of such order within two (2) business days.

(7) Suspension, revocation or modification of permit. The city may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the city. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation(s) described therein, provided such permit may be reinstated upon such conditions as the City of Millington may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation(s). (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2048. Civil penalty.** Any person who is found to have performed any of the following acts or omissions to act shall be subject to a civil penalty of up to five thousand dollars (\$5,000.00) per day for each offense.

(1) Failure to obtain any required permit;

(2) Violation of the terms and conditions of the permit;

(3) Violation of a final determination or order of the manager; or

(4) Violation of any provision of this chapter.

The civil penalty imposed by this section is intended to be solely for remedial purposes and not for punishment. It shall be imposed for each day that a violation of this chapter continues. All civil penalties paid pursuant to this chapter shall be deposited into a special fund, to be used solely to pay the costs of correction or alleviation of conditions created as a result of violation of this chapter, or to pay the costs of ensuring compliance with the requirements of this chapter. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 ***Ch16\_6-29-20***, and Ord. #2020-17, Oct. 2020 ***Ch17\_01-09-23***)

**14-2049. Unlawful acts, misdemeanor.** It shall be unlawful for any person to knowingly:

- (1) Violate a provision of this chapter;
- (2) Violate the provisions of any permit issued pursuant to this chapter;
- (3) Fail or refuse to comply with any lawful notice to abate issued by the manager, which has not been timely appealed to the manager within the time specified by such notice; or
- (4) Violate any lawful order of the manager within the time allowed by such order.

Such person shall be guilty of a misdemeanor; and each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly. Any person found to be in violation of the provisions of this chapter shall be fined up to five hundred dollars (\$500.00) per day for each offense during which the act or omission continues or occurs. Upon learning of such act or omission, the manager or designee may issue a city ordinance citation charging the person, firm, or entity with violating one (1) or more provisions of this chapter (section) or permit issued there under, criminal violation of this chapter (section) may also be the basis for injunctive relief, with such actions being brought and enforced through the local general sessions environmental court. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 ***Ch16\_6-29-20***, and Ord. #2020-17, Oct. 2020 ***Ch17\_01-09-23***)

**14-2050. Processing a violation.** (1) The manager may issue an assessment against any person or permittee responsible for the violation;

- (2) Any person against whom an assessment or order has been issued may secure a review of such assessment or order by filing with the manager a written petition setting forth the specific legal and technical grounds and reasons for his objections and asking for a hearing in the matter involved before the manager and if a petition for review of the assessment or order is not filed within thirty (30) days after the date the assessment or order is served, the violator shall be deemed to have consented to the assessment and it shall become final;

(3) Whenever any assessment has become final because of a person's failure to appeal the manager's assessment, the manager may apply to the appropriate court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment;

(4) The manager may consider the following factors when reviewing a petition:

(a) Whether the civil penalty imposed will be an appropriate economic deterrent to the illegal activity by the violator or others in the regulated community;

(b) Damages to the City of Millington, including compensation for the damage or destruction of the City of Millington's MS4, and also including any penalties, costs (direct or indirect) and attorneys' fees incurred by the city as a result of the illegal activity, as well as the expenses involved in enforcing this chapter and the costs involved in rectifying any damages;

(c) Cause of the discharge or violation;

(d) The severity of the discharge and its effect on the City of Millington's MS4;

(e) Effectiveness of action taken by the violator to cease the violation;

(f) The technical and economic reasonableness of reducing or eliminating the discharge;

(g) The economic benefit gained by the violator.

(5) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the Commissioner of the Tennessee Department of Environment and Conservation for violations of Tennessee Code Annotated, § 68-221-1106; however, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 68-221-1106 shall not exceed five thousand dollars (\$5,000.00) per day during which the act or omission continues or occurs.

(6) Any appeal of this final determination shall be made to a court of competent jurisdiction, and such appeal must be filed within fifteen (15) days of the decision by the manager. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 **Ch16\_6-29-20**, and Ord. #2020-17, Oct. 2020 **Ch17\_01-09-23**)

**14-2051. Appeal judicial proceedings and relief.** The manager may initiate proceedings in any court of competent jurisdiction against any person who has or is about to:

(1) Violate the provisions of this chapter.

(2) Violate the provisions of any permit issued pursuant to this chapter.

(3) Fail or refuse to comply with any lawful order issued by the manager that has not been timely appealed within the time allowed by this chapter.

(4) Violates any lawful order of the manager within the time allowed by such order.

Any person who shall commit any act declared unlawful under this chapter shall be guilty of a misdemeanor, and each day of such violation or failure shall be deemed a separate offense and punishable accordingly. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2052. Damages, disposition of funds.** All damages collected under the provisions of this chapter and civil penalties collected under the provisions of § 14-2049, following the adjustment for the expenses incurred in making such collections shall be deposited to the stormwater fund and there be appropriated for the stormwater management program. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2053. Records retention.** All dischargers subject to this chapter shall maintain and preserve for no fewer than five (5) years, all records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling, and chemical analyses made by or in behalf of the discharger in connection with its discharge. All records which pertain to matters which are the subject of any enforcement or litigation activities brought by the city pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired. (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2054. Facilities maintenance agreement.** 14-2053. T h e following "facilities maintenance agreement" is provided as a minimum guideline for agreements between City of Millington and owners/operators of stormwater infrastructure not owned by the city.

#### STORMWATER FACILITIES MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between \_\_\_\_\_ (Insert Full Name of Owner) hereinafter "Landowner," and City of Millington, Tennessee hereinafter "City".

WITNESSETH, that the Landowner is the owner of certain real property described as \_\_\_\_\_ as recorded by deed in the land records of Shelby County, Tennessee, Deed Book \_\_\_\_\_ Page \_\_\_\_\_, hereinafter called the "Property."

WHEREAS, the Landowner is proceeding to build on and develop the property; and

WHEREAS, the Site Plan/Subdivision Plan known as \_\_\_\_\_, hereinafter called the "Plan", which is expressly made a part hereof, as approved, and subsequent amendments thereto, by the City, provides for the control and management of stormwater within the confines of the property; and

WHEREAS, the City and the Landowner, its successors and assigns, including any homeowner's association, agree that the health, safety, and welfare of the residents of Millington, Tennessee, require that on-site stormwater management facilities be constructed and maintained on the Property; and

WHEREAS, the City requires that on-site stormwater management/BMP facilities as shown on the Plan be constructed and adequately maintained by the Landowner, its successors and assigns, including any homeowner's association.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. On-site stormwater management facilities shall be constructed by the Landowner, its successors and assigns, in accordance with the plans and specifications identified in the Plan.
2. The Landowner, its successors and assigns, including any homeowner's association, shall adequately maintain the stormwater management facilities. This includes all pipes and channels built to convey stormwater to the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as good working condition so that these facilities are performing their design functions. The Annual Inspection Report form (attached) is to be used to establish what good working condition is acceptable to the City of Millington.
3. The Landowner, its successors and assigns, shall inspect the stormwater management facilities and submit an inspection report annually. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the

entire facilities, berms, outlet structure, pond areas, access roads, etc. Deficiencies shall be noted in the inspection report.

4. The Landowner, its successors and assigns, hereby grant permission to the City, its authorized agents and employees, to enter upon the Property and to inspect the stormwater management facilities whenever the City deems necessary. The purpose of inspection is to follow-up on reported deficiencies, conduct routine inspections, and/or to respond to citizen complaints. The City shall provide the Landowner, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary.
5. In the event the Landowner, its successors and assigns, fails to maintain the stormwater management facilities in good working condition acceptable to the City, the City may enter upon the Property and take whatever steps necessary to correct deficiencies identified in the inspection report and to charge the costs of such repairs to the Landowner, its successors and assigns. This provision shall not be construed to allow the City to erect any structure of permanent nature on the land of the Landowner outside of the easement for the stormwater management facilities. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the City.
6. The Landowner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management facilities (including sediment removal) is outlined on the approved plans, the schedule will be followed.
7. In the event the City pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner, its successors and assigns, shall reimburse the City upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City hereunder.
8. This Agreement imposes no liability of any kind whatsoever on the City and the Landowner agrees to hold the City harmless from any liability in the event the stormwater management facilities fail to operate properly.
9. This Agreement shall be recorded among the land records of the City of Millington, Tennessee, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowner's association. A deed

assignment from a property owner under this Agreement shall confer the terms of this Agreement onto the purchaser and releases the seller.

WITNESS the following signatures and seals:

-----  
Company/Corporation/Partnership Name (Seal)

By: \_\_\_\_\_

\_\_\_\_\_  
(Type Name of Signatory)

\_\_\_\_\_  
(Type Title of Signatory)

The foregoing Agreement was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, NOTARY PUBLIC.

My Commission Expires: \_\_\_\_\_

CITY OF MILLINGTON

By: \_\_\_\_\_

\_\_\_\_\_  
(Type Name) Mayor (as added by Ord. #2004-5, May 2004, and replaced by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

**14-2055. Standard operating procedures for city forces.** City employees, in the performance of their regular duties, shall adhere to the standard operating procedures for stormwater management as outlined in the City of Millington's stormwater management manual as may be adopted and amended from time to time. Adoption or amendment of polices shall be by resolution of the board of mayor and aldermen and adoption or amendment of operating procedures shall be approved by the city manager. Until such time as this guide document is prepared, the following general policy statements shall apply:

- (1) Perform regularly scheduled maintenance on all equipment and vehicles.
- (2) Maintain maintenance records for all equipment and vehicles.
- (3) Maintain environmental training records for all employees.



(4) Conduct daily inspections in storage yards and maintenance shops to confirm proper storage, handling, and disposal of materials.

(5) All stored materials shall have the relevant material safety data sheet stored nearby in a readily accessible location.

(6) Store materials away from waterways and storm drain inlets.

(7) Perform annual inspections and maintenance as needed for stormwater inlets and conveyance systems. (as added by Ord. #2020-11, June 2020 *Ch16\_6-29-20*, and replaced by Ord. #2020-17, Oct. 2020 *Ch17\_01-09-23*)

## CHAPTER 21

### CEMETERIES AND MAUSOLEUMS

#### SECTION

14-2101. Cemeteries and mausoleums subject to regulation.

**14-2101. Cemeteries and mausoleums subject to regulation.**

Cemeteries and mausoleums established after the effective date of the ordinance comprising this chapter and shall be subject to the following regulations:

(1) Whenever in this chapter the word "cemetery" is used, it shall also mean and include a mausoleum and shall include, as applicable, any expansion of an existing cemetery.

(2) Any cemetery proposed to be established or enlarged, either on property owned at the time of such proposed enlargement or on an additional site, after the effective date of the ordinance comprising this chapter shall be subject to site plan review and approval by the Millington Planning Commission, in accordance with § 14-1201 of the Millington Municipal Code.

(3) Prior to the establishment or enlargement of any cemetery within the city, the owner or developer of the cemetery shall submit to the planning commission a proposed site plan, and a drawing or photographic depiction of any buildings or equipment storage facilities proposed to be built in the cemetery. The site plan shall contain the information and certifications required by § 14-1201(2)(d) of the Millington Municipal Code, to the extent applicable to cemeteries, and such other information as the planning commission may request, including but not limited to number and layout of burial plots, a detailed plan for the landscaping and/or fencing required by this chapter and a drawing showing the location and proposed face of any proposed signs to be located on the property. An approved site plan shall be valid for a period of twenty-four (24) months after the date of approval. If construction or enlargement of the cemetery has not begun by such date, a new site plan application must be submitted to and approved by the planning commission.

(4) Upon submission of a proposed site plan to the planning commission, any person who proposes to develop or enlarge a cemetery shall deliver to the planning commission a pattern book showing the types and sizes of monuments and grave markers that it proposes to allow within the cemetery. Upon approval of such pattern book or parts thereof by the planning commission, any monuments or markers of the size shown therein shall be deemed approved for installation in the cemetery. Any proposed monuments or markers taller than the approved size must be submitted to the planning commission for approval prior to installation.

(5) The certification by the owner and the trustee of any mortgage on the property shall serve as the commitment by the owner, which shall be binding on any transferee of the owner who proposes to use the property for a

cemetery, that the site will be developed as shown on the approved site plan. The certified site plan, when approved by the planning commission, shall be recorded by the city in the office of the Shelby County Register and shall regulate the development of the subject property. If, at any time during development or construction of the cemetery, or thereafter, the city's building inspector determines there are variations from the approved site plan, he shall promptly notify the owner in writing of such variations and shall direct that the variations be corrected within a specified period. If following proper notice the owner has not complied with the provisions of the approved site plan, the building inspector shall have the authority to cite the owner to municipal court for violation of the zoning ordinance.

(6) The minimum required area for any cemetery shall be ten (10) acres, and the maximum allowed area for any cemetery shall be two hundred (200) acres, or such larger area as shall be permitted by state law, except that the ten acre minimum requirement shall not apply to enlargement of a family burial ground existing as of the effective date of this chapter or to a cemetery that:

(a) Is owned and operated by a church which is exempt from federal income taxes under section 501(c)(3) or any successor section of the Internal Revenue Code; and

(b) Is located on real property adjacent to the real property on which the principal church facilities are located.

As to each of these, the minimum required cemetery area shall be determined by the planning commission on a case-by-case basis, but shall not be less than one (1) acre.

(7) The minimum site width for any property used as a cemetery, measured at the required setback line, shall be not less than two hundred feet (200').

(8) All graves and burial lots shall be set back at least thirty feet (30') from each lot line and street right of way.

(9) There shall be perimeter landscaping and/or fencing along the lot lines of the cemetery site and appropriate landscaping within the cemetery site, all of which landscaping and/or fencing shall be subject to approval by the planning commission.

(10) All structures of six feet (6') in height or over, including but not limited to mausoleums, monuments and buildings, shall be set back at least one hundred feet (100') from each lot line and street right-of-way.

(11) There shall be enough paved roadway within each cemetery to accommodate parking for vehicles of persons using the cemetery, but only the roadways necessary for ingress shall be located in any portion of the setback areas.

(12) All equipment, including but not limited to vehicles used in connection with the cemetery, shall be kept in a building or otherwise adequately screened from public view when not in actual use.

(13) All buildings and improvements constructed within a cemetery shall be generally in conformance with the surrounding neighborhood.

(14) All cemeteries within the city shall be kept in good condition and repair. No cemetery owner or operator shall permit the cemetery property to be or become a nuisance, but shall keep the property well-maintained. "Well-maintained" shall include, but is not limited to keeping the grass cut and leaves raked on a regular basis, trees and shrubs trimmed, and roadways and fencing in good condition.

(15) All cemeteries within the City of Millington shall comply with applicable state and county laws and regulations.

(16) Failure of any cemetery owner or operator to comply with the provisions of this chapter shall constitute a violation, which shall give the city's building inspector authority to cite the owner and/or operator to municipal court. The violator shall be subject to a fine of up to fifty dollars (\$50.00) for the violation of each provision of this chapter for which it is convicted, and each day that a violation continues shall be a separate violation. (as added by Ord. #2008-3, July 2008)

## CHAPTER 22

### MIXED USE PLANNED DEVELOPMENTS

#### SECTION

- 14-2201. Purpose.
- 14-2202. General provisions.
- 14-2203. Scope of planning commission review.
- 14-2204. Development standards.
- 14-2205. Review and approval.
- 14-2206. Amendments to an approved outline plan.
- 14-2207. Final plat procedures.
- 14-2208. Final plat requirements.
- 14-2209. Recording of final plat/building permit.

**14-2201. Purpose.** The purpose of the mixed use planned development district is to provide the means and guidelines by which tracts of land may be developed using a unified approach rather than traditional lot-by-lot treatment, and to allow for the creation of planned developments that may contain a variety of residential uses, together with certain approved commercial, office and/or light industrial uses. For purposes of this chapter, a mixed use planned development (called hereafter an "MUPD") shall be a tract of land at least four (4) acres in area, under single/joint ownership and/or unified control, planned and developed as an integrated unit, in a single development operation or an approved series of phases, according to an approved general site plan. The uses permitted in an MUPD must be of a type and so located as not to create or maintain any undue detrimental effect upon surrounding properties. The MUPD shall not endanger the public health, welfare or safety, nor shall it substantially diminish or impair property values in the neighborhood in which it is located. (as added by Ord. #2008-7, Sept. 2008)

**14-2202. General provisions.** (1) District created, plan approval required. An MUPD district shall be created only upon application to the Millington Planning Commission, recommendation of the planning commission to the board of mayor and aldermen, and adoption of an ordinance rezoning the tract for which the application was submitted to MUPD by said board, in accordance with chapter 15, amendments, of the Millington Zoning Ordinance. When the board of mayor and aldermen has adopted an ordinance amending the Millington Zoning Ordinance to create an MUPD district, the approved outline plan of the area for which the MUPD zoning was granted shall be recorded in the office of the Shelby County Register and shall govern the development of the land for which the MUPD zoning was granted.

(2) Minimum district area. The minimum area for an MUPD district shall be four (4) acres, except that the minimum area for an MUPD district for infill development shall be one (1) acre.

(3) Proposed uses. A list of proposed uses within each MUPD must be submitted with the application for establishment of the MUPD district and the outline plan. The planning commission and board of mayor and aldermen shall have the right to prohibit certain uses within an MUPD that would otherwise be allowed within the underlying zoning district for some or all of the area.

(4) Application required. Each person or entity who desires to secure rezoning of a tract of land to MUPD shall submit an application for rezoning, on the form required by the city, together with the following.

(a) An outline plan drawn to a scale of not less than one inch equals one hundred feet (1"=100') or larger scale suitable to the size of development if approved by the department of planning and economic development. Larger scales are allowed for plans included within a booklet format application. The outline plan shall be drawn on a sheet twenty by twenty-four inches (20"x24").

(b) Text presenting the following information:

(i) Proposed land uses and unit densities;

(ii) Proposed primary circulation pattern;

(iii) Proposed parks, playgrounds and green space, with total acreage listed for each. Paved portions of parks, playgrounds and green space shall be included in the total required acreage only if the paved area is necessary for the function of, access to and/or parking needed for the area. Paved areas within the property designated for parks, playgrounds or green space shall not be counted toward the number of parking spaces required under the zoning ordinance.

(iv) Explanation of the units or phases to be constructed, together with a proposed timetable;

(v) Proposed means of dedication of common open space areas and organizational arrangements for the ownership, maintenance and preservation of common open space;

(vi) Relation to the existing and projected land uses in the surrounding area.

(5) Outline plan requirements. The outline plan shall include, at a minimum, the following information:

(a) General boundary description, including area, bearings and dimensions of all property lines;

(b) General locations of existing roads with both the existing and proposed right-of-way from centerline, and the location of proposed points of ingress to and egress from the site;

- (c) Existing topography, with a contour interval not greater than two feet (2') unless specifically waived in writing by the city engineer;
- (d) The location of all major existing tree masses;
- (e) Preliminary grading and drainage information, including preliminary proposals for on-site detention of storm water, if necessary, in accordance with city storm water drainage policy;
- (f) Vicinity map, north arrow and scale (graphically and numerically);
- (g) Tie in dimension from property corner to nearest to existing street;
- (h) Locations and types of existing easements, including instrument;
- (i) The title block, including the unduplicated name of planned development, outline plan, engineer's and developer's names, total acreage, date of draft/revision;
- (j) Individual parcel numbers and letters, the amount of acreage on each (and designated use, if applicable);
- (k) Proposed landscape plates (shown on the plan graphically and in cross section);
- (l) Names of abutting property owners or subdivisions; and
- (m) Outline plan conditions, including but not limited to land uses, densities, bulk requirements, access, circulation and landscaping.

(6) Supporting data. The city's department of planning and economic development, or the planning commission, or the board of mayor and aldermen may require the applicant to provide additional information in support of the MUPD application, if any of them deems such data essential to the consideration of the proposed rezoning. Such information may include, but is not limited to, studies of traffic generation, drainage, sewers and public utilities, marketing and economic feasibility analyses or other issues which may be pertinent to the site and surrounding area.

(7) Conditions for consideration/fee. (a) The city shall have no obligation to consider any application for MUPD zoning until all items listed in § 14-2202, together with the fee as established by the board of mayor and aldermen, have been properly submitted.

(b) There shall be a non-refundable application fee due and payable at the time of submission of an application of an application for mixed use planned development zoning, as follows:

(i) Five hundred dollars (\$500.00) for a mixed used planned development up to four (4) acres; and

(ii) Fifty dollars (\$50.00) for each additional acre, up to a maximum of two thousand five hundred dollars (\$2,500.00); and

Two hundred fifty dollars (\$250.00) for application for amendment of an approved outline plan. (as added by

Ord. #2008-7, Sept. 2008, and amended by Ord. #2008-11, Dec. 2008)

**14-2203. Scope of planning commission review.** The planning commission shall consider, but its review is not limited to, the following factors in its review of the proposed development plan:

(1) The conservation of natural resources on the property proposed for development, including trees and other living vegetation, steep slopes, watercourses, flood plains, soils, air quality, scenic views and historic sites;

(2) The provision of safe and efficient vehicular and pedestrian transportation both within the development and the community;

(a) The provision of sufficient open space to meet the needs of the proposed development and requirements of the Millington Zoning Ordinance.

(b) The provision of adequate drainage facilities and on-site drainage retention in order to prevent drainage problems from occurring on the subject site or within the community;

(c) The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) with the existing or anticipated land use in the surrounding area;

(d) The existence and/or provision of adequate infrastructure facilities to serve the proposed development (i.e., water, sewer and other utilities, streets, street lights, fire hydrant, site lighting, gas, electricity, telephone service and similar information);

(e) Conformance of the site development plan with the city's comprehensive land use plan, as it may exist from time to time, or existing or anticipated land uses in the general area of the proposed MUPD, and applicable requirements of the zoning ordinance and subdivision regulations;

(f) Provision of adequate access for emergency vehicles. (as added by Ord. #2008-7, Sept. 2008)

**14-2204. Development standards.** The site plan must provide for and conform entirely to the following standards and requirements:

(1) In order to encourage ingenuity, imagination and high quality design regulations for residential areas will not specify minimum lot area per dwelling unit, but will limit to five (5) dwelling units per acre in single family detached areas and fifteen (15) units per acre in multifamily residential areas. This will promote clustering of dwellings to provide maximum open space. However, general standards for area, height and yard requirements for each lot shall be as set out in the Millington Zoning Ordinance for the underlying zoning district.

(2) Off-street parking and loading shall be provided as required by the Millington Zoning Ordinance. Reductions or variations in required parking may



be recommended by the planning commission and approved by the board of mayor and alderman if suitable alternatives are presented.

(3) Street widths and improvements must conform to the requirements established by the city's subdivision regulations and the major road plan; however, alternative design cross sections of minor roadways may be presented for consideration and approval at the time of outline plan review.

(4) Provisions for water supply and sanitary sewer connections shall be made to the satisfaction and requirements of the city engineer, public works director, board of mayor and alderman and the appropriate state and/or county agencies.

(5) Drainage provisions: a means of on-site drainage retention or detention, in accordance with the city's drainage manual, shall be provided to control storm water run-off so that surface waters will be properly disposed of without adversely affecting neighboring properties through erosion, flooding and other drainage problems. Drainage provisions shall be made to the satisfaction and requirements of the city engineer and applicable Tennessee state law.

(6) All infrastructure, amenities and other improvements within an MUPD that are not individually owned buildings shall be installed and maintained by the developer, one or more property owners' associations or homeowners' associations, unless conveyed to and formally accepted by the City of Millington.

(7) Landscaping to provide a buffer between commercial, office, industrial and/or multi-family uses and adjacent single family residential districts and uses must be provided. The proposed type of landscape buffer shall be submitted by the developer as part of the application for MUPD zoning. These buffers shall be referenced by illustrated typical landscape plates, which shall show the type, size and location of plant material and/or required fencing or berms. A cross section of the approved screen shall be shown on the outline plan. Required screening shall not conflict with any easement.

(8) A minimum of ten percent (10%) of the gross residential area of each MUPD shall be set aside as parks, green space and/or playground. Of this ten percent (10%) a maximum of one-third (1/3) may be permanently covered with water. A maximum of five percent (5%) of the area designated to be parks and playgrounds may be covered with structures to be used in the recreational use of the area. Parks and playgrounds must be suitably improved for their intended use, but portions of parks and playgrounds containing natural features clearly worthy of preservation may be left unimproved.

(9) The planning commission and/or board of mayor and alderman may require such other special improvements as they deem desirable in the best interest of the city and the proposed MUPD. (as added by Ord. #2008-7, Sept. 2008)

**14-2205. Review and approval.** (1) The planning commission shall study the outline plan, text and supporting data, make suggestions for changes

and adjustments, and attach conditions for the approval of the outline plan as it deems necessary. After the planning commission reviews the outline plan and other required documentation text at a meeting, it shall recommend approval, disapproval or approval with conditions of the outline plan to the board of mayor and alderman in accordance with the Millington Zoning Ordinance.

(2) Within sixty (60) days after the date of the planning commission's action on the outline plan, the applicant shall submit a revised outline plan, incorporating all conditions imposed by the planning commission, to the department of planning and economic development. If the director of planning and economic development determines that the revised outline plan contains all changes required by the planning commission, the proposed MUPD zoning shall be submitted to the board of mayor and aldermen, without further review by the planning commission. If the revised outline plan does not contain all the changes required by the planning commission, it shall be re-submitted for consideration by the planning commission. If the developer has not submitted the revised outline plan within sixty (60) days after planning commission action on the plan originally submitted, the application for MUPD zoning shall be deemed withdrawn.

(3) The department of planning and economic development shall forward the recommendations of the planning commission to the board of mayor and alderman within fourteen (14) days of the date of the planning commission action on the application for MUPD zoning originally submitted or within fourteen (14) days of the date the applicant submits a revised outline plan incorporating the changes required by the planning commission, whichever date occurs later. The board of mayor and alderman shall approve, approve with conditions, or reject the request in accordance with the Millington Zoning Ordinance. Approval shall be indicated by the adoption of an amendment to the Millington Zoning Ordinance and zoning map which zones the property described in the application as MUPD.

(4) Once said ordinance becomes effective, the applicant shall deliver the outline plan of development, including all conditions of approval, engineer's certification, owners' and mortgagee's signatures, with notary acknowledgments and municipal authorization blocks to the department of planning and economic development for signature by appropriate city departments and recording in the Shelby County Register's Office, with the cost of recording to be paid by the developer. When the outline plan has been recorded, the property covered by the MUPD zoning shall be developed only in accordance with the recorded outline plan, unless amended as provided below.

(5) The recording of an outline plan shall not allow the development of the MUPD site but shall merely authorize the tiling of a final plat with the department of planning and economic development.

(6) If an application for MUPD zoning is denied by the board of mayor and alderman, a reapplication pertaining to the same property may not be tiled

within twelve (12) months of the date final action was taken on the previous application as outlined in § 14-1508 of the Millington Zoning Ordinance.

(7) No building permit shall be issued until a final plat of the proposed development or phase thereof, has been approved and recorded.

(8) If construction has not started within the MUPD within two (2) years following the effective date of the ordinance rezoning any property to MUPD, the board of mayor and aldermen shall have the right to rezone the property to its previous classification. Upon a showing of good cause for failure to commence construction within such period, the developer may seek an extension of not more than one (1) year at a time. A request for extension shall be submitted in writing to the planning commission, which may grant one extension of up to one (1) year. Requests for any additional extensions must be approved by both the planning commission and the board of mayor and aldermen. For purposes of this chapter, the start of construction shall mean the date on which a building permit was issued, provided the actual start of construction., repair, reconstruction., rehabilitation., addition or improvement was within one hundred eighty (180) days of the permit issuance date. The actual start of construction does not include: land preparation, such as clearing, grading and filling; or excavation for a basement, footings, piers or foundations; or the erection of temporary forms (such as construction trailers); or the installation of accessory buildings. (as added by Ord. #2008-7, Sept. 2008)

**14-2206. Amendments to an approved outline plan.** (1) An application for an amendment to an approved outline plan shall be filed with the planning commission and shall be accompanied by a nonrefundable fee in an amount established by the board of mayor and aldermen.

(2) An applicant requesting an amendment of an approved outline plan shall have the responsibility to demonstrate the appropriateness of the proposed amendment, by demonstrating the following:

(a) How the proposed amendment would conform to the city's comprehensive land use plan or to existing or anticipated uses of neighboring property;

(b) Why the proposed amendment to the approved outline plan for the property is appropriate or proper;

(c) The major economic, physical or social changes, if any, that have occurred in the vicinity of the property subject to MUPD zoning, that were not anticipated by the approved outline plan, that have substantially altered the basic character of the area, and that make the proposed amendment to the approved outline plan appropriate. The applicant shall describe such changes, their impact on the character of the area and the reasons for their not having been anticipated in detail and shall provided specific information as to the improvement of the plan that will occur if the amendment is approved.

(3) An application for an outline plan amendment shall include the following information:

(a) An outline plan of the entire MUPD, drawn to a scale of not less than one inch equals two hundred feet (1" = 200') or a smaller scale suitable to the size of development, if approved by the city's department of planning and economic development. The outline plan shall be drawn on a sheet twenty by twenty-four inches (20"x24").

(b) An outline plan of the contiguous land affected by the amendment, drawn to a scale of not less than one inch equals one hundred feet (1" = 100').

(c) Text presenting the following information:

(i) Proposed land uses and population densities;

(ii) Proposed primary circulation pattern;

(iii) Proposed parks and playgrounds;

(iv) Delineation of the units or phases to be constructed, together with a proposed timetable;

(v) Proposed means of dedication of common open space areas and organizational arrangements for the ownership, maintenance and preservation of common open space;

(vi) Relation to the comprehensive plan and to land uses in the surrounding area.

(vii) Estimates of traffic volumes generated by the completed project.

The amended outline plan shall include the same minimum information as that required in the initial application for an MUPD pursuant to this chapter.

(4) The application for an amended outline plan may be required by the department of planning and economic development to provide additional data in support of the amendment the planning commission may require such additional information as it deems material in connection with its consideration of the requested amendment. Such information may include but not be limited to, studies of traffic generation, drainage, sewers and public utilities, marketing and economic feasibility analyses or other issues which may be pertinent to the site and surrounding area.

(5) Scope of planning commission review:

(a) The planning commission shall consider, but not be limited to, the factors listed in § 14-2202 of this chapter.

(b) Proposed amendments shall be first submitted to the department of planning and economic development for its recommendations and report and the planning commission shall hold a public hearing thereon.

(c) The planning commission shall make its recommendation on such request for all outline plan amendments to the board of mayor and alderman, and the board of mayor and alderman shall proceed to hold a public hearing in relation thereto after giving fifteen (15) days notice of

the hearing in an official newspaper and mailing out notices property owners within five hundred feet (500') of the affected property specifying the time and place for the hearing.

(d) The board of mayor and alderman may refer the application back to the planning commission for additional study before final decision; however, no notice other than for the first public hearing need be given. (as added by Ord. #2008-7, Sept. 2008)

**14-2207. Final plat procedure.** The final plat may be filed at any time after the effective date of the ordinance zoning the property as MUPD. The final plat shall be reviewed by the planning commission in order to establish that it substantially meets the conditions of the recorded outline plan. After the planning commission reviews the final plat at a public hearing, it shall recommend approval, disapproval or approval with conditions of the final plat to the board of mayor and aldermen in accordance with the subdivision regulations. (as added by Ord. #2008-7, Sept. 2008)

**14-2208. Final plat requirements.** (1) Scale. The final plat shall be drawn at a scale of one inch equals one hundred feet (1"=100') or a larger scale suitable to the size of development if approved by the department of planning and economic development. The final plat shall be drawn on a sheet twenty by twenty-four inches (20"x24").

(2) Boundary description, prepared in accordance with the requirements set forth in a Category I survey according to the Tennessee Land Surveyors Laws and Regulations, latest edition.

(3) The final plat shall incorporate the following information:

(a) Scale, north arrow, name of firm or individual responsible for preparation, date of preparation, site location map, acreage and number of lot;

(b) Name of development project, phase number, name of developer/owner, engineer, tax parcel information, and zoning district;

(c) Adjoining subdivisions by name, section and lot number, and the names of owner, parcel acreage and instrument number for all abutting un-subdivided tracts (across the street is construed to mean abutting);

(d) Name, location, and right-of-way of existing and proposed streets and cross-section of street improvements with curb, gutter and sidewalks;

(e) The location, bearing, width, and length of every street centerline, tract boundary, rights-of-way, lot line and all existing easements with instrument number and proposed easements with their purpose individually designated;

(f) Sites reserved for parks, playgrounds, schools, or other public uses;

- (g) The tie-in dimension from a boundary line to the centerline of the nearest existing public street and to nearest section corner;
  - (h) Lots numbered in numerical order and common areas lettered in alphabetical order with street names assigned if appropriate and the area of each in square feet.
  - (i) Accurate location and description of existing monuments and markers or the location and description of a permanent bench mark set as a part of the survey;
  - (j) Conditions imposed by the planning commission and board of mayor and alderman;
  - (k) The regulatory base flood water surface elevation, FEMA floodway and floodplain boundaries as shown on current FEMA maps;
  - (l) Location/footprint of proposed buildings, including height in stories and feet, floor area ratio, total floor area and total square feet of ground area coverage;
  - (m) Ingress and egress easements, parking areas, all internal circulation, including bicycle and/or pedestrian easements/paths.
  - (n) The number of off-street parking spaces, and off-street loading areas;
  - (o) Existing tree masses to remain, streams, floodplain and other natural features;
  - (p) Landscaping, screening, buffering, and open space areas in accordance with the approved outline plan.
  - (q) A statement of organizational arrangements for the ownership, maintenance and preservation of common open space;
  - (r) On-site drainage retention or detention structures located in accordance with the outline plan, with design approved by the city engineer.
- (4) The provision and location of appropriate access to provide for the safety and efficiency of vehicular and pedestrian traffic both within the development and along adjacent streets;
- (5) The provision of sufficient open space, landscaping and buffering to meet the requirements of the outline plan;
- (6) The provision of adequate drainage facilities and on-site drainage retention or detention, in accordance with the city's drainage manual, in order to prevent drainage problems from occurring on the subject site or within the community;
- (7) The conformance of the site design (location of buildings, parking lots, screening, landscaping) with the approved outline plan;
- (8) The existence and/or provision of adequate community facilities to serve the proposed development (i.e., water, sewer gas, electricity, streets, fire hydrants, and site lighting);

(9) Conformance of the final plat with the approved outline plan, and any other applicable requirements of the zoning ordinance and subdivision regulations;

(10) Certifications. The following signed certificates shall be provided on the final plat (see appendix to city's subdivision regulations):

- (a) Owner's certificate;
- (b) Mortgagee's certificate, if applicable;
- (c) Notary's certificate for all owners and mortgagees;
- (d) Engineer's and/or surveyor's certificate and seal;
- (e) Planning commission certificate;
- (f) Board of mayor and alderman certificate;
- (g) Recording certificate.

(11) Protective covenants. The developer shall include protective covenants and/or deed restrictions on the final plat. (as added by Ord. #2008-7, Sept. 2008)

**14-2209. Recording of final plat/building permit**. Upon approval of the MUPD by the board of mayor and alderman, the city department of planning and economic development shall record the final plat in the Shelby County Register's Office, after the required signatures for recording have been secured and a development contract has been executed by all parties. No building permit shall be issued until a final plat of the proposed MUPD development, or applicable portion thereof, has been approved, filed and recorded. After approval, filing and recording of the final plat for any phase or for all of an MUPD, a building permit may be issued in accordance with the approved final plat. (as added by Ord. #2008-7, Sept. 2008)

**CHAPTER 23****OLD TOWN DISTRICT PROVISIONS****SECTION**

14-2301. Intent to adopt regulations.

14-2302. Adoption of regulations.

**14-2301. Intent to adopt regulations.** It is the intent of the board of mayor and aldermen to adopt regulations for the Old Town District, including but not limited to regulations regarding permitted and prohibited uses, bulk regulations, signage, design regulation and review, landscaping, and other regulations that will accomplish the purposes for which the Old Town District is established. Until such time as the board of mayor and aldermen amends this chapter to establish such regulations, the underlying zoning classifications and regulations shall remain in effect as to each parcel of real property within the Old Town District. (as added by Ord. #2009-18, Oct. 2009, as replaced by Ord. #2019-5, May 2019 *Ch16\_6-19-20*)

**14-2302. Adoption of regulations.** The following regulations were developed in accordance with the recommendations of the City of Millington Twenty (20) Year Master Plan adopted by Millington Planning Commission as Resolution 2-2018 on April 16, 2018. Within the areas designated O-T (Old Town) on the zoning map of the City of Millington, Tennessee, the following provisions shall apply:

- (1) Uses permitted, see Chart One, Permitted Uses.
- (2) Lot area, width, height, setbacks and other bulk regulations, see Chart Two District and Bulk Use Regulations. All buildings and structures located within the approach zone of any airport runway shall be subject to the regulations pertaining to such approach zone.
- (3) Maximum number of principal buildings. None providing the provisions of § 14-2303 are met.
- (4) Accessory buildings. Accessory buildings shall conform to the following standards:
  - (a) No accessory building shall be utilized for human occupation.
  - (b) No accessory building shall extend beyond the required front yard or the front line of the principal building.
  - (c) No accessory building shall extend into the required side yard.
  - (d) Accessory buildings may extend into the rear yard and shall be located a distance from the rear property line equal to the height of the structure.



(e) Accessory buildings shall not cover more than thirty percent (30%) of the required yard.

(f) No accessory building shall exceed twenty feet (20') in height.

(5) Parking. The general requirements of § 14-1203, Off Street Parking, shall apply to this district. However, this area was developed prior to the enactment of present-day setbacks and other standards and the strict application of the standards could make many of the properties in this area undevelopable. The planning commission is hereby granted a wide range of discretion in the application of the parking requirements in this district. The planning commission may take into consideration conditions such as: on-street parking; available public parking; shared parking, and other conditions in the approval of sites for development or redevelopment in this district. (as added by Ord. #2019-5, May 2019 (20) *Ch16\_6-19-20*)

**CHAPTER 24****SIGN ORDINANCE****SECTION**

- 14-2401. Findings.
- 14-2402. Purposes.
- 14-2403. Definitions.
- 14-2404. Computations.
- 14-2405. Sign requirements for office, commercial and industrial districts.
- 14-2406. Requirements for residential districts.
- 14-2407. Exempt signs.
- 14-2408. Nonconforming signs.
- 14-2409. Prohibited signs.
- 14-2410. Temporary and conditional signs.
- 14-2411. Illumination.
- 14-2412. Structural requirements.
- 14-2413. Inspection, removal and safety.
- 14-2414. Old Town.
- 14-2415. Permits and fees.
- 14-2416. Administration and penalties.
- 14-2417. Severability.

**14-2401. Findings.** The board of mayor and aldermen hereby finds as follows:

- (1) Exterior signs have a substantial impact on the character and quality of the environment.
- (2) Signs provide an important medium through which individuals may convey a variety of messages.
- (3) Signs can create traffic hazards and aesthetic concerns and may be detriments to property values, thereby threatening the public health, safety and welfare.
- (4) The city's zoning regulations have for many years included the regulation of signs, and such regulations are now set out in § 14-1202 of the city's zoning ordinance. Such sign regulations represent the city's effort to provide adequate means of expression and to promote economic viability of businesses within the community, while at the same time providing protection from proliferation of signs of a type, size, location and character that would adversely impact the city and its inhabitants. (as added by Ord. #2010-08, May 2010, and replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, July 2014)

**14-2402. Purposes.** This chapter is adopted for the following purposes:

- (1) To attract and direct various activities and enterprises in order to provide for maximum public convenience;

- (2) To provide for a reasonable system of control of signs;
- (3) To encourage signs that are well designed and pleasing in appearance and to provide incentive and latitude for variety, good design relationship and spacing;
- (4) To encourage a desirable urban characteristic that has a minimum of overhead clutter;
- (5) To enhance the economic value of the community and each area thereof through the regulation of such things as size, location, design and illumination of signs;
- (6) To encourage signs that are compatible with adjacent land use;
- (7) To reduce possible traffic and safety hazards through good signage;
- (8) To relate sign area and height to viewing distance and optical characteristics of the eye. (as added by Ord. #2010-08, May 2010, and replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, July 2014)

**14-2403. Definitions 14-2403. Definitions.** Any words and phrases not defined in this chapter but defined in chapter 5 of title 14 shall have the meanings set out in such other Chapter. All other words and phrases shall be given their common, ordinary meanings, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of these regulations. Tables and illustrations included in these regulations shall be used in interpreting the relevant provisions, but where the text conflicts with a table or illustration, the text shall control.

(1) "Abandoned sign." A sign that no longer correctly directs or exhorts any person, or advertises a bona fide business, lessor, owner, project or activity conducted or product available, event or activity on the premises where the sign is displayed. See § 14-2412(10) for the time period after which a sign will be deemed abandoned.

(2) "Advertising sign." A sign containing an implicit or explicit commercial message directing attention to a business, profession commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is maintained, including but not limited to billboard signs.

(3) "Alteration." Any change in materials, size, height, shape, design of a sign.

(4) "Animated sign." An animated sign is one in which displays one (1) or more pictures or icons that moves or changes shape or a sign any portion of which physically moves. For example, a sign on which the copy contains a picture of a dog standing still, which picture changes to a dog running, or a sign which has the form of a person, and the person's arms raise and lower, is an animated sign. For purposes of this chapter, the term "animated sign" does not refer to flashing or changeable copy signs, either manual or automatic, which are separately defined.

(5) "Awning." A roof-like cover that is temporary or portable in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements and that may be periodically retracted to the face of the building.

(6) "Awning sign." A sign that is attached to or that is part of an awning.

(7) "Banner." Any streamer, flag-like pennant or other like object, whether made of fabric or of other materials which, with or without insignia, attracts the attention of persons to a location, business or event. For purposes of this ordinance, a flag representing a governmental entity is not a banner.

(8) "Beacon." Any light with one or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source, or any light with one (1) or more beams that rotate or move.

(9) "Bench sign." A sign located on the seat of back of a bench or seat placed on or adjacent to a public right-of-way.

(10) "Billboard sign." A panel for the display of advertisements in public places, such as alongside highways or on the sides of buildings, see "advertising sign" above.

(11) "Building face or wall." All window and wall areas of a building in one plane or elevation.

(12) "Business sign." A sign that directs attention to a business, profession, commodity, service or entertainment conducted, sold or offered upon the same lot where the sign is located.

(13) "Canopy." See "awning sign."

(14) "Changeable copy sign (manual)." A sign on which copy is changed manually; for example, reader boards with changeable letters or changeable pictorial panels. All changeable copy shall be included within the allotted face of sign square footage and enclosed under a locked and vandal-proof case not reachable by pedestrians.

(15) "Changing sign (automatic)." A sign such as an electronically or electrically controlled sign, message center or reader board, where different copy changes are shown on the same lamp bank. Copy for a changing sign (automatic) may include alpha-numeric text and may include logos, graphics, pictures or other images. The copy for a changing sign (automatic) shall change not less than every five (5) seconds. Changing copy shall not cover more than fifty percent (50%) of the sign face.

(16) "Church." A building, together with its accessory buildings and uses, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

(17) "Civic or club sign." A sign that identifies a governmental, nonprofit institution or organization qualified as tax exempt under section 501(c)(3) or other provision of the Internal Revenue Code, on whose premises it is located and that contains:

- (a) The name of the institution or organization;
- (b) Street address;
- (c) Greetings, announcements of events or activities occurring at the institution or similar messages.

(18) "Combination sign." A sign incorporating any combination of the features of pole, projecting and roof signs.

(19) "Commercial message." Any sign wording, logo or other representation that directly or indirectly names, advertises or calls attention to a business, product, service or other commercial activity.

(20) "Construction sign." A temporary sign erected on the premises on which construction is taking place, during the period of construction, and indicating the names of the architects, contractors, owners, financial supporters, sponsors and other similar persons or firms involved with the construction and development of the project.

(21) "Copy." The words, numbers, letters, logos, graphics and/or pictures on a sign surface.

(22) "Development sign." A temporary sign, relating to the promotion of the sale or rental of a new development or subdivision being constructed on the site upon which the sign is located, or located and containing information and directions to a new development or subdivision.

(23) "Dilapidated sign." A sign that is structurally unsound, has defective parts or is in need of painting or other maintenance.

(24) "Display sign area." The area made available by the sign structure for the purpose of displaying and advertising message.

(25) "Electric sign." A sign containing electrical wiring, but not including signs illuminated by an exterior light source.

(26) "Exterior directory sign." An exterior sign containing the building identification and address and the name and location of each tenant and allowed in any project where one or more tenants does not have an exterior entrance or does not qualify for an exterior sign.

(27) "Fixed balloon." Any lighter than air or gas-filled inflatable object attached by a tether to a fixed place used as a means of directing attention to a business, profession, or to a commodity or service sold, offered or manufactured, or to any entertainment or event.

(28) "Flashing sign." Any sign that contains an intermittent or flashing light source, or that includes the illusion of intermittent or flashing light, by means of animation, changes in the degree of light intensity, an externally mounted intermittent light source or reflective metal strips.

(29) "Ground sign." A sign mounted at ground level, the bottom faces of which shall be a minimum of twenty-four inches (24") from the surrounding grade.

(30) "Historic sign." A sign that carries historic significance, historic character or reflects a certain time period or era.

(31) "Instructional or informational sign." A sign solely conveying instructions intended strictly for the direction, safety and convenience of the public with respect to the premises on which it is maintained, such as a sign that designates the entrance to or exit from a parking area, or a sign that identifies restrooms, a "no trespassing" sign, a danger sign and other similar signs.

(32) "Integrated center sign." An on premise sign which identifies the name of an integrated retail, office or industrial center and/or the businesses within the center which may or may not be in the same building.

(33) "Logo." The graphic or pictorial presentation of a message, including but not limited to, the use of shapes, designs, decorations, emblems, trademarks, symbols or illustrations, or the superimposition of letters or numbers or any other use of graphics or images other than the sequential use of letters and numbers.

(34) "Nonconforming sign (legal)." A sign that does not comply with the provisions of this chapter, but that was in compliance in all respects, including the obtaining of any required permit, with the Sign Ordinance of the City of Millington in effect at the time of its erection.

(35) "Nonconforming sign (illegal)." A sign that does not comply with the provisions of this chapter and that was not in compliance with the Sign Ordinance of the City of Millington in effect at the time of its erection or with the conditions and provisions of a variance from such regulations lawfully granted at such time.

(36) "Off-premises sign." A sign that identifies or communicates a message related to an activity conducted, a service rendered or a commodity sold, which is not the primary activity, service or commodity provided on the property where the sign is located; any sign allowed as an off-premises sign must have the written approval of the owner of the property upon which the sign is to be located prior to consideration of approval and placement of the sign.

(37) "On-premise sign." A sign that identifies or communicates a message related to an activity conducted, a service rendered or a commodity sold, which is the primary activity, service or commodity provided on the property where the sign is located.

(38) "Permanent sign." Any sign that is intended for other than temporary use for a limited period of time. A permanent sign is generally affixed or attached to the exterior of a building, or to a sign structure, by adhesive or mechanical means, or is otherwise characterized by construction materials, a foundation or anchoring indicative of an intent to display the sign for more than a limited period.

(39) "Pole or post sign." An on-premise freestanding sign that is supported by one or more uprights upon the ground, exceeding ten feet (10') in height. Pole signs may have display boards for messaging provided that the light is of a single, constant color, non-flashing, non-animated and is less than

twenty percent (20%) of the total allowed sign area. Messaging may change content and shall be no more than ten (10) seconds apart.

(40) "Political sign." A temporary sign erected to publish the name of a candidate, solicit or enlist votes in any official public election or a sign which states a position regarding a public or political issue or similar purpose.

(41) "Portable sign." A sign not permanently affixed to the ground or any structure, and designed or intended to be readily relocated including signs in or being transported in or on a vehicle and signs being held and/or transported by pedestrians who have been hired to display, present or promote advertisement.

(42) "Project sign." A sign solely consisting of numbers and/or letters erected to display the identity of three (3) or more occupants in a single building, business or office complex.

(43) "Projecting sign." A sign, which projects or extends outward from a wall or building, such that two (2) or more sides of the sign are visible.

(44) "Pylon sign." An on-premise freestanding sign which has at least twenty five percent (25%) of the sign structure width in contact with the ground and in which the sign face is separated from ground level by means of one (1) or more supports such as poles, pole covers or columns. Pylon signs may have display boards for messaging provided that the light is of a single, constant color, non-flashing, non-animated and is less than twenty percent (20%) of the total allowed sign area. Messaging may change content and shall be no more than ten (10) seconds apart. The width of the sign face and the display board shall be coordinated to be appropriate as determined by the planning commission.

(45) "Real estate sign." A temporary sign used to announce or display the offer for sale rental, or lease of real property, which sign is erected on the property for sale.

(46) "Roof sign." A sign that is erected upon or above a roof or parapet of a building or structure.

(47) "Sign." Any letter, figure, character, mark, plan, point, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminated service, which shall be constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever, so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise, whatsoever, which is displayed in any manner outdoors. Every sign shall be classified and conform to the requirements of that classification. The construction of every permanent sign shall be consistent with industry standards for permanent signs as approved by the planning commission and in no case shall a permanent sign be constructed of canvas or other banner material.

(48) "Sign face." The entire area of a sign on which copy can be placed. On a double faced sign, the area of only one (1) face is included to determine the square footage of the sign face.

(49) "Sign structure." Any structure that supports, has supported, or is capable of supporting a sign, including any decorative cover for the sign structure. This definition does not include a building, fence, wall or earthen berm.

(50) "Special sign corridor." There are three (3) special sign corridors that exist within the City of Millington. These corridors are described below and special regulations exist within these corridors.

**U. S. Highway 51.** A special sign corridor shall exist along both sides of U. S. Highway 51, within the Millington City Limits. Special area and height regulations exist within this area.

**Navy Road.** A special sign corridor shall exist along both sides of Navy Road from U. S. Highway 51 to a point 500' east of Church Street. Special area and height regulations exist within this area.

**Babe Howard Avenue.** A special sign corridor shall exist along both sides of Babe Howard Avenue from U. S. Highway 51 to Hickory Meadow Road. Special temporary sign rules shall exist within this area.

(51) "Street banner." A temporary sign composed of lightweight material either enclosed or not enclosed in a rigid frame affixed to streetlight or utility pole and utilized by the city to promote a specific event, district or holiday.

(52) "Subdivision entrance sign." Any on-site sign, masonry wall, landscaping or similar materials or features, which separately or together form a display for identifying the subdivision, provided that the legend of the sign shall consist only of the name of the subdivision.

(53) "Temporary sign." A sign neither intended nor designed for permanent display. A sign not permanently affixed to the ground or any structure, and designed or intended to be utilized for a designated or permitted period of time except as otherwise stated herein.

(54) "Trailer." A cart, wagon or other similar wheeled conveyance, either enclosed or unenclosed, which is designed to provide a means of transporting property or persons. A trailer lacks the independent power to move from place to place, but is moved by being pulled, attached, hitched or otherwise connected to a motor vehicle or other separate power source.

(55) "Vehicle." A wheeled automobile, truck, bus or other similar conveyance, which has its own source of power to move from place to place, which is generally used for transport of persons or property, and which is required by state law to be registered and licensed.

(56) "Vehicle sign." A sign that is magnetically or structurally attached to, or that is painted on or applied to a vehicle, the principal purpose of which sign is to attract attention to a product sold or a business, entertainment or other activity. Any vehicle greater than twenty feet (20') in length and/or eighty



inches (80") in height that has a vehicle sign must be parked in the closest space to the business and not at the street frontage. This shall not apply to rental trucks located on the premises of a truck rental business.

(57) "Video sign." A sign that contains moving or changing pictures or images.

(58) "Wall sign." Any sign attached flat on a wall or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall.

(59) "Wayfinding sign." The City of Millington may install wayfinding signs on existing street signs, poles and on public property. The purpose of these signs is to: Provide unified and distinctive wayfinding elements for the City of Millington; aid visitors, and residents to locate destinations easily; facilitate traffic circulation and public safety; and enhance the visual environment of the city. When wayfinding signs are located in state owned or maintained property, they shall conform to the requirements of the "Tennessee Department of Transportation Local Government Guide Sign Program."

(60) "Window sign (permanent)." A sign painted on or otherwise permanently affixed to a window and which is included within the amount of permanent signage allowed by this chapter for the property on which it is located.

(61) "Window sign (temporary)." A sign temporarily affixed to or placed within a window and which is not included within the amount of permanent signage allowed by this chapter for the property on which it is located, but is allowed only on a temporary or conditional basis.

(62) "Work of art." An object, painting, sculpture, picture or other similar artistic rendering that contains no commercial message. (as added by Ord. #2010-08, May 2010, replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, July 2014, and amended by Ord. #2019-23, Dec. 2019 *Ch16\_6-29-20*)

**14-2404. Computations.** The following principles shall control the computation of sign area and sign height:

(1) Computation of area of individual signs, except ground signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest simple geometric shape, or combination of shapes that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative wall when such wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

(2) Computation of area of ground signs. The area of a ground sign shall include all area of the sign, including logos, emblems, representation, or other display, excluding supporting structure and the required sign base.

(3) Computation of height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

- (a) Existing grade prior to construction; or
- (b) The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

In cases where the normal grade cannot be reasonably determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street.

(4) Building frontage. (a) Building frontage shall mean:

(i) The horizontal length measured from the side of a building parallel to the street frontage of the heated and enclosed structure upon a premises, not including out-buildings or appurtenant structures, or

(ii) The horizontal length of a building on the side with its principal entrance, whichever is greater.

(b) If that side is a straight wall, then the building frontage shall be the length of the wall. If the side is not a straight wall, the building frontage shall be the horizontal distance from the corner at one end of the side of the building with the principal entrance to the other corner on the same side of the building; where that side of the building is concave, then the measurement shall be made in a straight line from corner to corner; where the side of the building is convex or has one (1) or more sections that project in front of the front corners, then the measurement shall be made as the shortest distance between two (2) lines projected from the two front corners of the building, with such lines parallel to each other and as close as practicable to perpendicular to the front of the building. (as added by Ord. #2010-08, May 2010, and replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, July 2014)

**14-2405. Sign requirements for office, commercial and industrial districts.** (1) Permitted signs and regulations. The following types of signs, subject to the limitations prescribed for them, shall be the only signs permitted for uses authorized in the B-1, B-2, O, M-1, M-2, M-3, PC and MUPD Zoning Districts of the City of Millington except as otherwise provided herein or in other ordinances of the city now existing or hereafter adopted, and subject to planning commission approval:

- (a) Business signs. (i) Each ground floor occupant of a business structure is permitted no more than two (2) business signs. These sign(s) may face the street upon which the business fronts, be located on the side of the business, or one (1) sign may be located

on the front and the second sign located on the side, provided that no sign on the side of the building shall face directly into residential property.

(ii) If two (2) or more businesses share the same space with the same frontage, the signage area shall be the same as in § 14-2405(1)(a)(i), above. No additional signage will be allowed. The businesses occupying such space shall agree among themselves as to allocation of the permitted square feet of signage for each.

(iii) If an existing business has installed all or substantially all the signage permitted under this chapter and then, having received the required permits to do so, erects a permanent wall in order to divide its building into separate sections, with separate entrances, the business that occupies the newly-created section shall be allowed to install additional signage up to thirty (30) square feet in excess of the total signage allowed for the original business in that building. Provided, however, that the allowable signage for any such newly divided separate section in a previously existing building shall not exceed one and one-half (1 1/2) square feet of signage for each linear foot of such section's frontage. For example: If the original total allowed signage for the building was one hundred fifty (150) square feet, the existing occupant (owner or tenant) has used one hundred fifty (150) square feet, and the newly divided space has frontage of thirty (30) linear feet, the newly divided space shall be allowed thirty (30) square feet of signage. If the existing occupant has used only one hundred thirty (130) of the allowed one hundred fifty (150) square feet of signage, and the newly divided space has frontage of thirty (30) linear feet, the occupant of the newly divided space shall be allowed up to forty five (45) square feet of signage.

(iv) Where a building fronts on more than one (1) street, one (1) sign is allowed facing each street but in no case shall the total square footage of all signage exceed two hundred (200) square feet except as otherwise provided herein.

(v) In those instances where a building frontage is less than one hundred (100) linear feet, upon request of the building occupant, the planning commission may increase the maximum square footage allowed for that building may be increased not to exceed ten percent (10%).

(vi) Business establishments situated on the second or third floors of business structures and having an exterior entrance on the ground floor shall be permitted one (1) wall sign not to exceed four (4) square feet, located adjacent to the exterior entrance.

(vii) Signs for hotels, motels and "big box" businesses shall be in sizes and locations as approved by the planning commission, but such signs shall not exceed a total of three-hundred (300) square feet in size for all signs or a maximum height of twenty five feet (25'). For purposes of this subsection, a "big box" business shall be one that occupies at least fifty thousand (50,000) square feet of heated space and has a building frontage of at least two hundred (200) linear feet.

(viii) Signs for businesses setback greater than two hundred feet (200') from the street right-of-way with greater than one hundred feet (100') of frontage. All buildings with greater than one hundred (100) lineal feet (lf) of frontage shall be allowed a total of one hundred fifty (150) square feet of sign area for the first one hundred (100) lf of building frontage. In addition, they shall be allowed additional square footage based on the following chart:

SIGN AREA CHART		
Distance from the street	Sign Area Calculation	Maximum Sign Area
Within 100'	One and one-half square foot of signage for every 100 linear foot of the occupant's building frontage	150 sq. ft.
101' to 400'	One and one-half square foot of signage for every 100 linear foot of the occupant's building frontage plus 0.5 sq. ft. for every 1 lf., of building frontage greater than 100'	300 sq. ft.
401' to 600'	One and one-half square foot of signage for every 100 linear foot of the occupant's building frontage plus 1.0 sq. ft. for every 1 lf., of building frontage greater than 100'	450 sq. ft.
Greater than 600'	One and one-half square foot of signage for every linear foot of the occupant's building frontage.	600 sq. ft.

(ix) A business may have a maximum of two (2) wall signs or may have a permanent window sign in lieu of a wall sign. Subject to the regulations of this ordinance, some business may have a ground sign. All signs are subject to the following restrictions:

(A) No wall sign shall project above the highest point of the wall or the parapet on the same side of the building as the sign.

(B) Ground signs in all districts except M-1, M-2 and M-3 and the special sign corridors listed below, shall be a maximum of thirty two (32) square feet in sign area (four

feet (4') in height) and shall be situated at least fifteen feet (15') from the pavement edge or curb of a public street or outside the public right-of-way, whichever is further. The ground sign structure, including base, shall be no more than six feet (6') in height from surrounding grade. Berms or landscaping shall not be allowed for the purpose of elevating signage, except as provided through the site plan review process.

**Special Sign Corridor - U. S. Highway 51.** Qualifying businesses may have a pylon sign of up to fifty (50) square feet, twenty feet (20') in height and shall be situated at least fifteen feet (15') from the pavement edge or curb of a public street or outside the public right-of-way, whichever is farther. The ground sign structure, including base, shall be no more than twenty feet (20') in height from surrounding grade. Berms or landscaping shall not be allowed for the purpose of elevating signage, except as provided through the site plan review process.

**Special Sign Corridor - Navy Road.** Qualifying businesses may have a ground sign, and such sign shall be a maximum of forty (40) square feet in sign area (six feet (6') in height) and shall be situated at least fifteen feet (15') from the pavement edge or curb of a public street or outside the public right-of-way, whichever is further. The ground sign structure, including base, shall be no more than eight feet (8') in height from surrounding grade. Berms or landscaping shall not be allowed for the purpose of elevating signage, except as provided through the site plan review process.

(C) In M-1, M-2 and M-3 districts, ground signs for buildings with a frontage of one hundred (100) lineal feet or less, shall be a maximum of sixty four (64) square feet in sign area (eight feet (8') in height) and shall be situated at least fifteen feet (15') district from the pavement edge or curb of a public street or outside the public right-of-way, whichever is further. The sign structure shall be no more than ten feet (10') in height from surrounding grade. Berms or landscaping shall not be allowed for the purpose of elevating signage, except as permitted through the site plan review process.

(D) Permanent window signs shall be permitted in lieu of a building sign provided that permanent window signs shall not occupy more than twenty five percent (25%) of the total window openings, with no more than fifty

percent (50%) of any individual window covered. Window signs shall not be placed in a manner that would impede the sight of people entering or exiting the premises or emergency personnel.

(E) No business sign shall be located closer than two feet (2') from any other business located on the ground floor of the same or adjoining building, and no business sign shall be located closer than two feet (2') in any direction from any other business sign.

(b) Civic and church signs. (i) Schools, clubs and non-profit organizations shall be permitted one on-premise sign facing each street upon which such entity's primary office or principal facility fronts. Such signs shall be subject to the same restrictions as provided for business signs with regard to height, location, size and type. The height, location, size and type and landscaping of all proposed school, club and non-profit organization signs shall require review and approval by the planning commission.

(ii) Each church located in a commercially zoned area or within the Special Sign District - U. S. Highway 51, shall be permitted one (1) on-premise, ground-mounted sign facing each street upon which its principal building fronts. Each church shall also be allowed one wall-mounted sign facing each street upon which it fronts; provided however, a wall sign may designate only the name and/or denomination of the church. Such signs shall be subject to the same requirements provided for business signs with regard to height, location, size and type, except as provided below. The maximum total sign square footage allowed for each church shall be two-hundred-twenty (220) square feet, and no ground signs shall exceed ten feet (10') in height. The height, location, size, type and landscaping of all proposed church signs shall require review and approval by the planning commission.

(iii) Churches, schools, clubs and non-profit organizations shall also be allowed a maximum of two (2) directional signs located off-premises. Such signs shall state the name of the church, school, club or organization and provide a directional arrow. The off-premises signs shall not exceed twenty-five (25) square feet in size and shall not be more than six feet (6') high. Such signs shall not be illuminated. The design, color scheme and placement of such off-premise signs shall be subject to review and approval by the planning commission and written approval of the owner of the property on which they are to be placed.

(c) Construction and development signs. (i) Construction and development signs shall be permitted, as set out herein, during the

course of physical construction under a valid building permit issued by the City of Millington and thereafter as provided below.

(ii) Construction signs for business or commercial structures shall not exceed thirty two (32) square feet in face area, shall be no greater than eight feet (8') in height, shall be located on the premises where construction is in progress, and shall be no less than fifteen feet (15') from the face of curb or edge of pavement. The construction signs provided for in this subsection shall be permitted to stand during the period of construction and for a period of thirty (30) days after construction is complete. Construction signs in business and commercial districts shall contain, at a minimum, the name of the owner and/or developer and the names and telephone numbers of persons to contact for emergency purposes, purchase or leasing or may contain such other information as required by governmental agencies or lender.

(iii) When the construction of a business or commercial project is complete and while lots in a business or commercial subdivision or bays in a multi-occupant project are for sale or lease, there shall be permitted on-premises "for sale" or "for lease" signs of the same size and locations as described in § 14-2405(1)(d)(i)(A) and (B) until two-thirds (2/3) of the lots or bays, as applicable, have been sold or leased. Thereafter, there shall be permitted on-premises real estate signs for individual lots or bays as provided for in this chapter.

(d) Exterior directory signs. (i) Exterior directory signs shall be allowed in any project where one (1) or more tenants does not have an exterior entrance or does not qualify for an exterior sign. The purpose of the directory shall be for customer convenience, direction and safety. The number of directories shall be limited to one for each main entrance to the building.

(ii) Directories shall not exceed the following sizes:

(A) Twelve (12) square feet per face, and total sign face areas shall not exceed twenty four (24) square feet when located within seventy five feet (75') of any public right-of-way;

(B) Twenty five (25) square feet per face, and total sign face area shall not exceed fifty (50) square feet when located seventy five feet (75') feet or more from any public right-of-way.

(iii) Directories shall be located either behind the main building line or a minimum of seventy five feet (75') from any public right-of-way. No exterior directory shall exceed six feet (6') in height as measured from surrounding grade.

(iv) Building identification letters shall not exceed six inches (6") and tenant identification shall not exceed four inches (4"). Each tenant listed shall occupy the same size and shape space.

(e) Project signs. In a project or development wherein five (5) or more businesses, tenants or occupants are contained with or without individual street frontage and with a common parking lot and a total square footage of at least seven thousand five hundred (7,500) square feet in the project, there shall be permitted, in addition to the allotted square footage heretofore recited, a project sign subject to the following restrictions:

(i) Project signs shall be set back no less than fifteen feet (15') from the street right-of-way.

(ii) The height of the project sign shall be determined by the number of occupants as hereinafter provided, but in no instance shall the height exceed twenty feet (20') regardless of the number of occupants;

(iii) The maximum width of the project sign shall be no more than ten feet (10);

(iv) The sign may be internally lighted, but only with white lighting of such intensity and focus that will not infringe upon neighboring properties or street traffic;

(v) The base of the project sign must be fully landscaped with planters and/or shrubbery in all directions not less than the dimensional width of the sign, which base area shall be so designed to prevent traverse by vehicular or pedestrian traffic.

(vi) The name of the project itself must be located upon the top of the project sign, the name designation to be substantially the same width as the overall sign and of vertical height no more than five feet (5').

(vii) Every tenant, occupant or business listed upon the project sign shall be entitled to no more than ten (10) square feet per business, and a vertical sign height of no more than one foot (1'), provided that the collective square footage of the occupant signs shall not exceed one hundred twenty (120) square feet and in the event that there are more than twelve (12) tenants, tenants and/or businesses identified, then each shall be entitled to an equal allotment on the project sign;

(viii) All project signs shall be ground signs, and the face of the sign shall be located not more than three feet (3') and not less than two feet (2') from surrounding grade and the face shall be rectangular in shape; the final height of the sign to be determined as hereinbefore provided by the number of occupants, it being



specifically prohibited to have spaces or gaps between occupant signs and the center designation signs;

(ix) The space between the bottom of the sign face and ground level shall be of solid construction.

(x) The planning commission shall approve all project signs prior to the issuing of a sign permit, and such signs are further subject to the general requirements of this chapter.

(xi) The business owner and/or company name shall accompany some portion of allowable signs.

(f) Real estate signs. In office, commercial and industrial zoning districts, one (1) ground or wall sign advertising the sale or lease of real estate shall be permitted upon the premises of the property for sale or lease, provided the sign does not exceed twenty (20) square feet in face of sign area. If not attached to a building, the sign shall not exceed five feet in height and shall be set back no less than fifteen feet (15') from the face of curb or edge of pavement. Real estate signs shall be removed within seven days of the closing of the sale, rental or lease of the premises.

(g) Special provisions for service stations and convenience stores. A service station or convenience store which is engaged in the retail distribution of petroleum and petroleum products, minor grocery staples and deli or grill foods, in addition to the sign allotment herein before provided, shall be further entitled to the following additional signs:

(i) Total permitted signage. The maximum signage for all signs for a service station shall equal one and one half (1.5) square feet for every lineal foot of building frontage. Provided, however, that the planning commission may increase the maximum signage by ten percent (10%) for buildings of less than one hundred feet (100') of frontage.

(ii) Ground mounted Pylon or freestanding signs. One (1) ground mounted sign shall be permitted for every service station building. The regulations for that sign shall be subject to the district and sign corridor in which it is located.

<b>Ground Mounted Signs</b>	<b>Area</b>	<b>Height</b>
Highway 51 Special Sign Corridor	50 sq. ft.	20 feet
Navy Road Special Sign Corridor	40 sq. ft.	8 feet
M-1, M-2, M-3 and M-P	50 sq. ft.	10 feet
All other permitted locations	32 sq. ft.	6 feet

(iii) Gasoline service station canopy signs. A gasoline service station with a canopy shall be permitted two canopy signs in addition to other permitted signs. These signs shall be a part of their total permitted signage. An individual canopy sign shall not exceed twenty (20) square feet and both signs shall collectively not

exceed forty (40) square feet in area. The canopy sign shall be a flat sign permanently affixed to the vertical face of the canopy and shall not project above or below or from any side of the vertical face of the canopy. The sign portion of the canopy may be internally lit. The balance of the canopy shall not be lit.

A business logo, inclusive of striping or other symbols, may appear on this canopy sign as part of the allowable sign area.

(iv) Pump signs. (A) Signs shall be allowed on gasoline pumps to provide the required information to the public regarding "octane rating," "price," type of fuel, "federal and state stamps," "pump use directions," and "no smoking."

(B) The trade name and any associated symbols shall be permitted on the sides of the pumps as flat signs located no more than three feet (3') above the ground and not to exceed one (1) square foot in sign area per pump.

(v) Gasoline service station price signs. Gasoline service station price information may be incorporated into the ground mounted sign or canopy sign, provided that the total area of the price sign shall not exceed twenty (20) square feet in area.

(vi) Building or wall signs. building signs are in accordance with normal requirements for office, commercial and industrial districts.

(h) Signs in PC Districts. Businesses located in PC Districts shall be allowed on-premise signs with an allowable area of one (1) square foot for each foot of building width, not to exceed one hundred fifty (150) square feet. Provided, however, that where there is one (1) single occupancy building, and no other buildings, located on a tract of land in a PC District that is five (5) acres or more in size, the business occupying that building shall be allowed three hundred fifty (350) square feet of signage, plus with approval of the planning commission, an additional fifty (50) square feet of signage for each developed acre in excess of five (5) acres, up to a maximum of five hundred (500) square feet of signage.

(2) Landscape requirements. (a) All signs permitted for uses authorized in the B-1, B-2, O, PC, MUPD, M-1, M-2 and M-3 zoning districts of the City of Millington shall be adequately landscaped, as approved by the planning commission.

(b) All ground, pylon and other signs which are not located in or on a building and which are located in B-1, B-2, O, PC, MUPD, M-1, M-2 and M-3 zoning districts or in a residential district (but not on a lot actually used for residential purposes) shall be landscaped in accordance with a landscape plan presented by the applicant and approved by the planning commission. Landscape guidelines will be provided with the application for a sign permit. Landscaping installation must be done within thirty (30) days after commencement of installation of the sign.

(c) The site user shall be responsible to keep required landscaping sufficiently watered and trimmed, and failure to do so shall be a violation of this ordinance. If any plants should die, the site user shall be responsible to replace them within thirty (30) days with substantially similar plants.

(3) Planning commission. In all instances where review of a proposed development by the planning commission is a requirement of this chapter or the zoning ordinance, or upon a request for installation of a new sign, or where an existing sign is proposed to be changed, the signs planned or proposed to be a permanent part of such development shall be reviewed and approved by the planning commission based on the following criteria:

- (a) The proposed site size and location
- (b) The proposed sign size and location on the site
- (c) Sign height
- (d) Sign color
- (e) Material construction methods
- (f) Illumination of the sign
- (g) Sign graphics and lettering
- (h) Sign type and style
- (i) Required landscaping

Provided however that changes of only the sign faces of a ground or building sign where there is no other change to the sign, may be approved by the director of economic development and planning or such director's duly authorized representative. (as added by Ord. #2010-08, May 2010, replaced by Ord. #2010-16, Oct. 2010, amended by Ord. #2013-4, Aug. 2013, replaced by Ord. #2014-8, July 2014, and amended by Ord. #2016-18, Dec. 2016, and Ord. 2019-23, Dec. 2019 *Ch16\_6-29-20*)

**14-2406. Requirements for residential districts.** (1) Permitted signs and regulations. The following types of signs, subject to the limitations prescribed for them, shall be the only signs permitted for uses authorized in all residential zoning districts:

(a) Civic, clubs, church and non-profit signs. (i) Schools, clubs and non-profit organizations shall be permitted one (1) on-premise sign facing each street upon which such entity's primary office or principal facility fronts. Such signs shall be subject to the same restrictions as provided for business signs with regard to height, location, size and type. The height, location, size and type and landscaping of all proposed school, club, and non-profit organization signs shall require the review and approval of the planning commission.

(ii) Each church shall be permitted one (1) on-premise, ground-mounted sign facing each street upon which its principal building fronts. Each church shall also be allowed one (1)

wall-mounted sign facing each street upon which it fronts; provided however, a wall sign may designate only the name and/or denomination of the church. Such signs shall be subject to the same requirements provided for business signs with regard to height, location, size and type. The maximum total sign square footage allowed for each church shall be one hundred (100) square feet, and no sign shall exceed six feet (6') in height. The height, location, size and type and landscaping of all proposed church signs shall require the review and approval of the planning commission.

(iii) Churches, schools, clubs and non-profit organizations shall also be allowed a maximum of two (2) directional signs located off-premises. The off-premises signs shall not exceed twenty-five (25) square feet in size and shall not be more than six feet (6') high. Such signs shall not be illuminated. The design, color scheme and placement of such off-premise signs shall be subject to review and approval by the planning commission and written approval of the owner of the property on which they are to be placed.

(iv) The maximum size for club and civic organizations shall not be more than forty eight (48) square feet in area.

(b) Construction signs. (i) Construction signs within residential districts shall be permitted as set out herein during the course of physical construction under a valid building permit issued by the City of Millington.

(ii) Construction signs for single family detached dwellings and duplexes shall be not more than nine (9) square feet in area, shall be set back at least ten feet behind the curb face or edge of pavement, and shall not exceed four feet (4') in height. The construction sign shall be permitted to stand during the period of construction, but not more than seven (7) days after construction is complete.

(iii) While a subdivision described in an approved final plat, is under physical construction, and for a period of sixty (60) days after the completion of construction, there shall be permitted two (2) temporary off-premises signs giving only the name of and directions to the subdivision, which signs shall be no more than sixteen feet (16') in area. The owner may choose to use a single off-premises development sign, in which case the total square footage of thirty two (32) square feet shall be permitted for such sign, with a height of no more than six feet (6'). For purposes of this section, "construction" shall mean construction of the subdivision infrastructure (grading, sewers, water lines, streets,

etc.) and shall not mean construction of individual houses within the subdivision.

(iv) Both on-premises and off-premises development signs shall require the approval of the planning commission as to location, set back and design as provided hereinafter.

(c) Development signs. When the infrastructure construction of a new residential subdivision is complete and lots or houses are for sale, there shall be permitted signs of the same size and locations described in § 14-2406(1)(b) until two-thirds (2/3) of the lots within the subdivision have been sold. Thereafter, there shall be permitted real estate signs for individual lots or houses as provided for in this chapter.

(d) Multi-family and mobile home park project identification signs. (i) All multi-family projects, apartment complexes and/or condominiums with four (4) or more units and mobile home parks with twenty five (25) or more units shall be permitted one (1) externally lighted ground or wall sign for identification; provided however, if the project fronts on more than one (1) arterial and/or collector street, then one (1) additional multi family project identification sign shall be permitted at a major entrance that is located on the additional street frontage. The sign face area of each sign shall not exceed thirty six (36) square feet. The height of any ground sign shall not exceed six feet (6').

(ii) Setback requirements for ground signs for multi-family and mobile home park developments shall be as follows:

(A) If the building is set back forty feet (40') or less from the street right-of-way, then the sign shall be placed within ten feet (10') of the front face of the building;

(B) If the set back is greater than forty feet (40') from the street right-of-way, then the sign shall be no less than thirty feet (30') from the street right-of-way;

(C) The set back requirements may be reduced by the development director or the planning commission as provided hereinafter if the sign is three feet (3') or less in height.

(e) Real estate signs. In all residential districts, one (1) temporary ground sign advertising the sale or lease of real estate shall be permitted upon the premises of the property for sale or lease. The sign shall not exceed dimensions of two feet by three feet (2' x 3'), with a total maximum sign face area of six (6) square feet per face, with a maximum of two (2) faces on a single plane of material. The maximum height of the sign shall be three feet (3'), and the sign shall be set back not less than five feet (5') from the curb face or edge of pavement.

(f) Subdivision entrance signs. In single family detached residential developments, a subdivision as defined by a duly recorded subdivision plat, there shall be permitted a subdivision entrance sign at the intersection of every major arterial or collector street within the subdivision. The subdivision entrance signs shall be permanent and approved ground signs, shall contain only the name of the subdivision, shall not exceed twenty five (25) square feet of the sign face area, shall be set back no less than twenty feet (20') from the face of the curb or edge of pavement of the main street of the subdivision and shall be approved by the planning commission. The setback requirements may be reduced by planning commission as provided hereafter, provided the height of the structure does not exceed three feet (3') above the curb grade,

(2) Landscape requirements. All signs permitted for uses authorized in all residential zoning districts of the City of Millington shall be adequately landscaped in accordance with the provisions of the City of Millington landscape requirements and approval by the planning commission.

(3) Planning commission. In all instances where review of a proposed development by the planning commission is a requirement of this chapter or the zoning ordinance, or upon a request for installation of a new sign, or where an existing sign is proposed to be changed, the signs planned or proposed to be a permanent part of such development shall be reviewed and approved by the planning commission, based on the following criteria:

- (a) The proposed site size and location
- (b) Sign size and location on the proposed site
- (c) Sign height
- (d) Sign color
- (e) Material construction methods
- (f) Illumination of the sign
- (g) Sign graphics and lettering
- (h) Sign type and style
- (i) Required landscaping

Provided however that changes of only the sign faces of a ground or building sign where there is no other change to the sign, may be approved by the director of economic development and planning or such director's duly authorized representative.

(4) Special provisions for AG residential district. (a) Allowable signs:

- (i) Signs advertising activities conducted on the property.
- (ii) Opening signs/new product or service signs as regulated in § 14-2406(1)(c)(i) and (ii).
- (iii) Directional signs provided that they are no more than three (3) square feet in size and are not illuminated.
- (iv) Signs as regulated by § 14-2406 requirements for residential districts as modified herein;

- (v) Off premise signs as regulated by § 14-2406(1)(a)(iii).
- (b) Prohibited signs. (i) Signs advertising home occupations.
  - (ii) Multi-family project identification signs.
  - (iii) Illuminated signs except in association with a subdivision entrance sign.
  - (iv) All signs not expressly permitted by this section.
- (c) Size. Signs shall not exceed fifty (50) square feet per face or a total of one hundred fifty (150) square feet for all signs on the property.
- (d) Location. (i) Signs shall not be erected within fifty feet (50') of road intersections.
  - (ii) There shall not be more than three (3) signs per street frontage and shall be spaced a minimum of two hundred (200) feet apart.
  - (iii) Signs shall be located at least thirty feet (30') from the edge of the pavement or back of curb of any road and shall not exceed twelve feet (12') in height. (as added by Ord. #2010-08, May 2010, replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, June 2014, and amended by Ord. #2019-23, Dec. 2019 *Ch16\_6-29-20*)

**14-2407. Exempt signs.** Except as expressly otherwise provided, the following signs shall be exempt from the requirements of this chapter:

- (1) Official public notices and notices posted by public officers in the course of performance of their duties;
- (2) Governmental signs for the control or direction of traffic and other regulatory purposes;
- (3) Flags or emblems of the United States, the State of Tennessee, Shelby County, the City of Millington, or U.S. military organizations located within the city;
- (4) Temporary on-site signs for a period not to exceed thirty (30) days, totaling not over six (6) square feet of surface area on any lot, pertaining to campaigns, drives or events of non-profit civic, philanthropic, educational or religious organizations, public or private schools located within the city;
- (5) Permanent memorial plaques, cornerstones, historical tables and the like installed by the United States, the State of Tennessee, Shelby County, the City of Millington, U.S. military organizations located within the city, or organizations that are tax exempt under section 501(c)(3) of the Internal Revenue Code;
- (6) Signs not visible from off the lot upon which they are situated;
- (7) Signs posted in conjunction with door bells or mailboxes, none exceeding thirty six (36) square inches in surface area;
- (8) Small, non-illuminated instructional signs, not exceeding one and one-half (1 1/2) square feet in surface area, containing messages such as "entrance" or "exit," "watch your step," "low overhang" and the like;

(9) Address signs, not more than one (1) for each main street frontage of each principal use on a lot, and not exceeding seventy two (72) square inches in surface area, showing only the numerical address designations of the premises upon which they are situated. All address signs shall be designed to facilitate emergency identification for fire department and other public service employees;

(10) Decals, numerals, names, addresses, hours, credit information and the like attached to doors or windows and all of which occupy a total area of one (1) square foot or less;

(11) Yard sale signs, provided that no yard sale sign shall not be displayed for more than five (5) days and shall be removed by the owner within one (1) day of close of sale and is subject to penalties as set for in § 14-2415.

(12) Political signs are exempt from the provisions of this chapter, provided they meet the following guidelines:

(a) Signs promoting the election of a political candidate or an issue on a ballot are allowed to be installed on both vacant and occupied private property, with the property owner's prior consent. Such signs are not allowed to be installed within the right-of-way or median of a road, street or highway. Such signs may not be installed more than thirty (30) days before the first day of early voting in an election and shall be removed within twenty-four (24) hours after the conclusion of the election (including runoffs).

(b) Political signs may be ground mounted or placed into a window. If they are ground mounted, they shall meet the requirements for real estate signs with respect to height and area.

**Residential areas:** The sign shall not exceed six (6) square feet per face, with a maximum of two faces on a single plane of material. The maximum height of the sign shall be three feet (3') and the sign shall be set back not less than five feet (5') from the curb face or edge of pavement.

**Non-Residential areas:** The sign shall not exceed twenty (20) square feet per face, with a maximum of two (2) faces on a single plane of material. The maximum height of the sign shall be five feet (5') and the sign shall be set back not less than fifteen feet (15') from the curb face or edge of pavement.

If the sign is placed in a window in a non-residential district, it shall conform to the window sign requirements.

(c) Political signs are specifically not allowed on utility poles, traffic signs, street name signs, fences and sidewalks, subdivision entrance signs, common open space areas, public property, schools, parks or trucks and trailers.

(13) Works of art with no commercial message.

(14) Signs painted on or affixed to bodies of vehicles and trailers and not prohibited by § 14-2409.



(15) Holiday lighting, including strips or strings of lights outlining roof lines, doors, window, wall edges, or other architectural features of a house or other building, displayed between Halloween and New Year's Day of each calendar year.

(16) Under canopy signs are exempt provided the following conditions are met:

(a) These signs shall be only allowed on buildings with three or more businesses, and contain only the name of the business.

(b) These signs shall be located no less than eight feet (8') above the sidewalk and be placed perpendicular to the building frontage.

(c) These signs shall not exceed five (5) sq. ft. in area and shall match the building sign in color. (as added by Ord. #2010-08, May 2010, replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, July 2014, and amended by Ord. #2017-16, Nov. 2017)

**14-2408. Nonconforming signs.** (1) Intent. Signs which were legally in existence prior to the adoption of this chapter, but which do not conform to the provisions of this section, are declared to be nonconforming signs. It is the intent of this section to recognize that the eventual elimination, as expeditiously and fairly as possible, of nonconforming signs is as much a subject of health, safety and welfare as is the prohibition of new signs that would violate the provisions of this chapter. It is also the intent of this section that any elimination of nonconforming signs shall be effected so as to avoid any unreasonable invasion of established property rights.

(2) General nonconforming sign provisions. Subject to the exceptions hereinafter set forth, any nonconforming signs may continue to exist after the effective date of this chapter, provided that subject to Tennessee Code Annotated, § 13-7-208, nonconforming signs shall not be:

(a) Changed to, or replaced with, another nonconforming sign;

(b) Expanded;

(c) Relocated, reoriented, or repositioned;

(d) Modified in any way that would increase the degree of nonconformity of such sign.

(3) Changes to a nonconforming sign. Sign maintenance, sign repair, and changing of permanent sign faces are allowed as long as structural alterations are not made and the sign is not increased in size. A sign permit is required and an electrical permit may be required in accordance with § 14-2415, permits and fees.

(4) Improvements. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any portion of a sign or structure declared unsafe by the city's building official.

(5) Replacement or modification of a nonconforming sign. Any replacement or modification of a nonconforming sign, except as permitted by, and in accordance with Tennessee Code Annotated, § 13-7-208 and this chapter,

shall render the prior permit void and shall result in the reclassification of such sign as a prohibited sign pursuant to § 14-2409.

(6) If the use of any property changes, any signs located on that property must be brought into compliance with this chapter. (as added by Ord. #2010-08, May 2010, and replaced by Ord. #2010-16, Oct. 2010, Ord. #2014-1, Feb. 2014, and Ord. #2014-8, July 2014)

**14-2409. Prohibited signs.** (1) General. Except as otherwise permitted by this chapter, the following signs shall be prohibited:

(a) Animated signs, except for signs showing only the name of the sponsor of the sign, time and temperature, or sign operated by a governmental entity.

(b) Flashing signs.

(c) Strips or strings of lights outlining property lines, sales areas, roof lines, doors, window, wall edges or other architectural features of a building except as permitted in § 14-2407(15).

(d) Signs on public property or rights-of-way, other than those erected at the direction or with the permission of a public authority having jurisdiction of such property.

(e) Signs which are not securely affixed to the ground, or otherwise affixed in a permanent manner to an approved supporting structure, including but not limited to portable signs and awning signs; provided however, that temporary signs specifically allowed under this chapter shall be exempt from this prohibition.

(f) Signs being carried, worn or otherwise displayed by pedestrians representing a business. Provided however, that this does not apply to an activity by a non-profit or civic institution holding a car wash or bake sale, etc., on a private property with permission of the owner. Costumes associated with brand of a company are allowed on the same property of the business (not within the right-of-way) as long as the person in costume is not carrying, wearing or displaying a sign.

(g) Signs with moving parts or flashing or blinking lights.

(h) Video signs.

(i) Balloon or streamers.

(j) Except as expressly allowed by this chapter, any sign on public property except for bench signs, traffic control or dealing with life safety issues. Such sign shall be deemed forfeitable and the city has the right to remove them without liability to the sign owner or other person who placed such signs.

(k) Signs visible from a public right-of-way that use the word "stop" or "danger" or otherwise present or imply the need or requirement of stopping, caution, the existence of danger or which for any reason are likely to be confused with any sign displayed or authorized by a public authority.

- (l) Signs that blend with or can be confused with traffic signals.
- (m) Signs that contain reflective materials.
- (n) Signs that exhibit more than two faces; provided, further, no double face signs shall be permitted if the distance between the back of the faces is at any point greater than twelve inches (12").
- (o) Billboard signs.
- (p) Signs that contain words or pictures of an obscene, indecent or immoral character which could offend public morals or decency.
- (q) Beacon lights.
- (r) Signs that are structurally unsound or that are rendered structurally sound by guy wires or unapproved facing or bracing.
- (s) Signs that obstruct safe and free ingress or egress through a required door, window, fire escape or other exit way.
- (t) Signs, interior and exterior, attached to, suspended from, supported by, placed within, painted on, or in any other fashion affixed on the body of any vehicle or trailer and which are visible from any street or public place, including signs placed in or being carried in the cargo area of a vehicle or trailer, such as truck beds, open trailers, etc., for the purpose of display or advertising.

Provided, however, this prohibition shall not apply to:

- (i) Signs painted on or affixed to the body, but not the windows, of a vehicle which bears current state license tags, or a trailer, which vehicle or trailer is regularly used in the transport of goods or persons, and which signs identify the owner of the trailer or the principal business, products or services of the owner;
- (ii) Bumper plate signs not larger than the size of an official license plate, but not including any sign indicating the vehicle or trailer is for sale or listing means of contacting the owner; and
- (iii) Signs which are required to be affixed to vehicles or trailers by any state, federal or local regulations.

Notwithstanding the foregoing, the owner of a vehicle or trailer who is not regularly engaged in the business of selling such items may affix a sign to any part of such vehicle or trailer indicating that same is for sale, and such shall be a permitted sign when the vehicle is being used for driving or parked incident to ordinary use by the vehicle owner. Established motor vehicle dealers with city business licenses may place signs advertising that such vehicles are for sale within the interior of vehicles located at such dealers' regular places of business.

- (u) Pole and post signs.
- (v) Signs installed, erected, enlarged or structurally altered in violation of the provisions of this chapter.
- (w) Roof signs.

(x) Changeable copy signs (manual and automatic), except as such signs are defined in § 14-2403.

(y) All signs that are not expressly permitted by, or are made illegal by, this chapter or any other ordinance of the City of Millington.

(z) Canopies with backlighting shall not be allowed.

(aa) No sign or advertising structure shall be approved which seeks to advertise a product or business not directly related to the commercial location on which the sign or advertising structure is proposed to be erected or located, except as expressly permitted elsewhere in this chapter.

(bb) Portable signs held by or attached to clothing or costumes.

(cc) Non-sign displays, such as figurines, symbols or logos identified with products sold or used to gain public attention, including but not limited to inflatables.

(2) Portable and flashing signs. (a) Due to the manifest traffic safety hazards, the use of portable and/or flashing signs, with or without changeable copy board attached, are declared a public nuisance and therefore prohibited by this chapter.

(b) Upon written notice by the city to the owner, user or lessee of a flashing sign, such sign shall be removed immediately. Upon failure to comply with this notice, the building official shall cite the sign owner or lessee into the city court. If found in violation, the owner shall be responsible for all costs incurred in removing sign, in addition to any court assessed fees and penalties. (as added by Ord. #2010-08, May 2010, and replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, July 2014)

**14-2410. Temporary and conditional signs.** (1) Permits required. Except as expressly set out herein, all temporary and conditional business signs must be permitted by the City of Millington and the required permit fee must be paid prior to their installation. Permits shall not be required for temporary window signs, and there shall be no permit fees required for such signs.

(2) Churches, civic organizations, etc. Banners for churches, Bible schools, or other religious or civic group and special activities are allowed provided they are restricted to a fourteen (14) day maximum display time for each special activity or event. Permits will be required for such banners, but no fee will be due.

(3) Opening banners /new product or service banners.

(a) Notwithstanding other provisions of this chapter, a newly established, substantially expanded in floor area (twenty percent (20%) or more) or relocated commercial business, in addition to the sign allotment specified above, may for a period of thirty (30) days display one on-site banner, temporary ground, window or wall sign per street frontage. Each allowed sign shall not exceed thirty (30) square feet in face area. Ground signs shall not exceed six feet (6') in height and shall

be set back from the curb face or edge of pavement no less than 30 feet (30'). For the purposes of this ordinance the opening banner may also include balloons, streamers, flags, pennants, and merchandise for a period not to exceed five (5) days, commencing when the opening banner is first installed. Vehicle mounted signs, flashing signs and portable signs are prohibited.

(b) Notwithstanding other provisions of this chapter, in addition to its lawfully permitted existing sign(s), an established business may have one on-site banner, ground, window or wall sign per street frontage to advertise a new product or service, which may be in place for not more than thirty (30) days. The business may utilize such banners for no more than five (5) temporary new product or service signs per year, provided that the total time for the display of these signs shall not exceed thirty (30) days. Such signs shall comply with the requirements of this chapter as to size and location.

(4) Requirements for banners. Whenever under this chapter a banner is allowed, the following requirements shall apply:

(a) Each allowed banner may be one- or two-sided and must be on the same lot or parcel as the business which is entitled to erect or install such banner. For stand-alone buildings, the banner may be up to three feet by ten feet (3' x 10') in size, not to exceed thirty (30) square feet. For buildings that are part of a multi-tenant commercial complex or strip center, the banner may be up to three feet by five feet (3' x 5') in size, not to exceed fifteen (15) square feet. No business may have more than one (1) banner, and no off-site banners shall be allowed. Each banner erected under the provisions of this ordinance must be at least fifteen feet (15') behind the established street right of way.

(b) In addition to the size limitations, each banner permitted under this chapter must meet the following requirements:

(i) It must be made of flexible vinyl or corrugated plastic;

(ii) It may contain letters, logos and/or numbers, but no pictures or other images are allowed; and

(iii) It must be properly secured at all times, so that it does not hang loose or flap in the wind. Each banner must advertise a special sale, promotion or event, and not just the name and other identifying information of a business.

(c) Before hanging or installing such a banner, the business owner or operator must secure a permit from the City of Millington Department of Planning and Economic Development.

(d) Any banner erected under the provisions of this chapter must be neat and professional-looking, must not be installed on in-ground steel poles or pipes; and must not be composed of plywood signs nailed together. Banners permitted by this ordinance may be installed by attachment to landscape timbers, as secured in-ground posts; or may be

attached between existing building columns, provided the view or passage of pedestrians is not obstructed; or may be attached to building walls or fascia. Banners may be affixed to existing permitted signs and/or sign posts. No banner erected under the provisions of this chapter shall be attached to one or more motor vehicles, or interfere with or block another entity's business sign, or obstruct the safe line of sight for drivers or pedestrians. The proposed placement of all banners will be reviewed for safety and compliance with this chapter by the City of Millington Department of Planning and Economic Development, and the person or business who proposes to erect or install any banner shall comply with the decision of said department.

(e) Any banner which becomes loose, torn, ripped or otherwise in a dilapidated condition must be immediately repaired, replaced or removed. Any banner which advertises a business that is no longer in operation must be immediately removed.

(f) If there is any banner that has not been removed (or if applicable under subsection (e) above, repaired or replaced) within five (5) days after the city delivers notice to the business advertised by such banner that such banner is loose, torn, ripped or otherwise in a dilapidated condition, or that is otherwise not in compliance with this chapter, or if there is any banner that, without the need for notice from the city, has not been removed by the business owner/operator within five (5) days after expiration of the term of the variance granted herein, the city shall have the right to remove and destroy or dispose of any such banner and charge the business for the cost of removal, and in addition, at the city's option, to cite the business owner for violation of this chapter. Each day after delivery of notice, or after expiration of the term of this variance and without notice, that a violation continues shall constitute a separate offense and shall subject the owner of the business advertised by the banner to a fine of up to fifty dollars (\$50.00) per day in addition to the city's cost of removal.

(g) Special Sign Corridor, Babe Howard Avenue. Banners as defined in the previous sections of § 14-2410 shall be permitted within this special sign corridor to advertise special events being held at USA Stadium, including but not limited to Goat Days, major tournaments and other similar events approved by the city. For the purposes of this ordinance the opening banner may also include balloons, streamers, flags, pennants, and merchandise. Vehicle mounted signs, flashing signs and portable signs are prohibited. All other rules for temporary signs shall apply. These banners may be placed for one week prior to the event and during the event. They may be placed on public and private properties with the permission of the owner.

(5) Construction signs. While a subdivision within the City of Millington or its annexation reserve area described in an approved final plat, is

under physical construction, and for a period of sixty (60) days after the completion of construction, there shall be permitted two temporary off-premises signs giving only the name of and directions to the subdivision, which signs shall be no more than sixteen feet (16') in area. The owner may choose to use a single off-premises development sign, in which case the total square footage of thirty two (32) square feet shall be permitted for such sign, with a height of no more than six feet (6'). For purposes of this section, "construction" shall mean construction of the subdivision infrastructure (grading, sewers, water lines, streets, etc.) and shall not mean construction of individual houses within the subdivision. These signs are not permitted for subdivisions outside Millington or its annexation reserve area.

(7) Window signs. Temporary window signs inside of business windows, provided that combination of any permanent window signs and temporary window signs for any business shall not exceed the following provisions:

(a) Temporary window signs shall not occupy more than twenty five percent (25%) of total window openings, with no more than fifty percent (50%) of any individual window covered. Window signs shall not be placed in a manner that would impede the sight of people entering or exiting the premises or emergency personnel.

(b) Where there are permanent window signs, the total window signage of both permanent and temporary window signs shall not exceed twenty five percent (25%) of total window openings, with no more than fifty percent (50%) of any individual window covered. (as added by Ord. #2010-08, May 2010, and replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, July 2014)

**14-2411. Illumination.** Illuminated signs shall adhere to the following provisions and restrictions in addition to those stated in the sign requirements by zone:

(1) The light for or from any illuminated sign shall be so shaded, shielded or directed that intensity will not be objectionable to surrounding areas, as approved by the planning commission.

(2) No sign shall have blinking, flashing or fluttering lights or other illuminating device which has a changing light intensity, brightness or color.

(3) No colored lights shall be used at any location in any manner so as to be confused with or construed as traffic-control or traffic safety devices.

(4) Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.

(5) Exposed bulbs shall not be used on the exterior surface of any sign, except when approved by the planning commission.

(6) Neon signs shall not be permitted as building signs, ground signs or as window signs. (as added by Ord. #2010-08, May 2010, and replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, July 2014)

**14-2412. Structural requirements.** All signs constructed or placed within the city must comply with all current building codes adopted by the city. An electrical permit must be obtained for installation of any sign requiring electrical service or connection. (as added by Ord. #2010-08, May 2010, and replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, July 2014)

**14-2413. Inspection, removal and safety.** (1) Annual inspection. The City of Millington building official shall make an annual inspection for each permanent business sign displayed in the city to ensure compliance with the provisions of this chapter.

(2) Maintenance. All signs and components thereof shall be kept in good repair and in safe, neat, clean and attractive condition. Signs not properly maintained shall be deemed in violation of this chapter.

(3) Removal of sign. The city shall give ten (10) days' written notice for the removal of any permanent sign erected or maintained in violation of this chapter. Upon failure to comply with this notice, the city shall issue a summons to the owner into city court. Temporary signs erected or maintained in violation of this chapter may be removed by the city without notice. The city shall remove any sign immediately and without notice if the sign presents an immediate threat to the health, safety, or welfare of the public. Any sign removal shall be at the expense of the owner of the property on which the sign is located.

(4) Obsolete and abandoned signs. (a) Any sign which advertises or pertains to a business, product, service, event, activity or purpose which is no longer conducted or that has not been in existence or use for thirty (30) days, or any sign structure that no longer displays any sign copy for a like period of time, shall be deemed to be obsolete or abandoned. Provided however, if the sign is a legal non-conforming sign the business activity shall have ceased for six (6) months for the sign to be deemed obsolete or abandoned.

(b) Permanent signs applicable to a business whose operations are temporarily suspended because of a change of ownership or management shall not be deemed abandoned or obsolete unless the property remains vacant for a period of thirty (30) days.

(c) Obsolete or abandoned signs are prohibited and shall be removed by the owner of the property, his or her agent or person having the beneficial use of the building or site upon which such sign or sign structure is erected within thirty (30) days after written notification from the city. The wall or face of the building on which the sign(s) was attached shall be repaired or resurfaced, including paint, to restore the wall or face to its original condition prior to installation of the sign(s). In



the event of noncompliance with the aforesaid terms and provisions, the city shall have the authority to issue a citation or court summons to the sign owner and/or lessee into city court. (as added by Ord. #2010-08, May 2010, and replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, July 2014)

**14-2414. Old Town.** (1) Old Town District Commission/Design Review Committee. Signs on property within the Old Town District must be reviewed and approved by the Old Town District Commission or, if established by the board of mayor and aldermen, the Old Town Design Review Committee, except that the director of economic development and planning may approve the relocation of a sign provided it conforms to this ordinance or prior sign ordinance from one property to another in the Old Town District.

(2) All signs located within the official Old Town District of the City of Millington, with the exception of exempt signs per this chapter, are allowed only after the approval of a certificate of appropriateness is granted by the Millington Old Town District Commission or, if established, the Old Town Design Review Committee; provided, however, that with respect to the relocation of an existing sign in the Millington Old Town District to another building also located within such district, the applicant may seek the approval of same by the Director of Economic Development and Planning ("DEDP"). If relocation of an existing sign is disapproved by the DEDP, the applicant may seek the approval of the Old Town District Commission or, if established, the Old Town Design Review Committee. This review by either the Old Town District Commission/Design Review Committee or the Director of Economic Development and Planning, as applicable, is in lieu of planning commission approval. Signs within the Old Town District are permitted by and in accordance with the Old Town District Ordinance and Old Town District Guidelines and are subject to permit fees established by ordinance. (as added by Ord. #2010-08, May 2010, and replaced by Ord. #2010-16, Oct. 2010)

**14-2415. Permits and fees.** (1) Permit and fee requirements. (a) Sign and electrical permits required. All permanent signs allowed under this chapter, and such other signs for which a permit is expressly required by this chapter, including existing signs, but except signs that are exempt under § 14-2407, shall require a sign permit and, if applicable, an electrical permit. An electrical permit as required shall be obtained at the same time as the sign permit.

(b) No alteration, etc., without permits. No sign shall be erected, altered or relocated without a sign permit and, if applicable, an electrical permit, except as otherwise provided herein.

(2) Applications. The sign permit application shall contain the location of the sign structure, the name and address of the sign owner and of the sign erector, drawing showing the design, location, materials, finishes and colors of

the sign, and such other pertinent information as the city may require to ensure compliance with this subsection and other requirements of the city. Applications shall be on forms provided by the city.

(3) Sign review and permit fees. (a) The review fee for each sign shall be fifty dollars (\$50.00) and the permit fee for each sign shall be the fees established from time to time by the Memphis and Shelby County Office of Construction Code Enforcement.

(b) A property owner, business occupant, or organization allowed more than one (1) sign shall obtain a separate sign permit and, if required, electrical permit for each sign.

(c) A sign permit shall not be required for cleaning, repainting or other customary maintenance performed periodically to a properly permitted sign.

(d) Any sign with internal or external lighting, including ground lighting, also requires an electrical permit and inspections pursuant to the provisions of the electrical code.

(e) Except to the extent required by the Memphis and Shelby County Office of Construction Code Enforcement, these fees shall not be levied against signs classified as follows:

- (i) Special service station signs;
- (ii) Civic and church signs;
- (iii) Real estate signs;
- (iv) Exempt signs;
- (v) Temporary window signs.

(f) The permit fee for any temporary sign, including banners, shall be twenty-five dollars (\$25.00).

(4) Permit null and void. A sign permit shall become null and void if:

(a) The work for which the permit was issued has not been completed within a period of six months after the date of issuance of the permit;

(b) The sign varies in any respect from either the approved design or the approved location. (as added by Ord. #2010-08, May 2010, replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, July 2014, and amended by Ord. #2015-21, Dec. 2015)

**14-2416. Administration and penalties.** (1) Enforcement. The department of economic development and planning, development services, or other departments or officers of the city designated from time to time by the board of mayor and aldermen, is authorized and directed to enforce all the provisions of this chapter. Upon presentation of proper credentials, the director of economic development and planning or such director's duly authorized representative, such as the codes enforcement officer, may enter at reasonable times any building, structure or premises in the City of Millington to perform any duty imposed upon him or her by this subsection.

(2) Appeals from administrative decisions. The board of zoning appeals shall hear and decide appeals from any order, requirement, decision or determination made by the department of economic development and planning or any other official charged with the responsibility of enforcing the provisions of this chapter, whereby it is alleged in writing that such official or a designee is in error or has acted in an arbitrary manner.

(3) Variances. (a) Authority. The board of zoning appeals has the authority to hear and act upon applications for variances to alleviate hardships by virtue of the inability of the landowner to comply strictly with the provisions of this subsection by reasons of unique shape, topography, or physical features of the property.

(b) Purpose of variance. The purpose of the variance is to modify the strict application of the specific requirements of this chapter in the case of exceptional irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby strict application would result in practical difficulty or undue hardship which would deprive an owner of the reasonable use of his land. A variance may only be granted if it will not cause substantial detriment to the public good and will not substantially impair the intent of this chapter.

(c) Standards for sign-related variances. The board shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

(i) That the particular physical surrounding shape, topographical or location conditions of the specific property or structure involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this subsection were carried out.

(ii) That the conditions upon which the petition for a variance is based would not be applicable, generally, to other property or structure in the same general area.

(iii) That the variance will not authorize signs, sign structures or other sign related activities other than those permitted by this subsection.

(iv) That financial returns alone shall not be considered a basis for granting a variance.

(v) That the alleged difficulty or hardship has not been created by any person having an interest in the sign, sign structure or property after the effective date of this subsection.

(vi) That granting the variance requested will not confer on the applicant any special privilege that is denied by this subsection to other similarly situated lands, structures, signs, sign structures or buildings.

(vii) That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure for sign purposes.

(viii) That the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the sign is located.

(ix) That the proposed variance will not impair an adequate supply of light and/or air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the area.

(x) The board of zoning appeals may, in accordance with procedures set forth in chapter 14 of the city zoning ordinance, vary the allowable sign sizes for ground signs or wall mounted signs, not to exceed ten percent (10%), provided all the other requirements of this chapter and chapter 14 are met.

(3) Penalties. Any person, firm or corporation who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than the maximum amount permitted by Tennessee law. Each day's continuance of a violation shall be considered a separate offense. Each of the owners of any sign, building or premises, or part thereof, where any matter in violation of this subsection shall be placed or shall exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense.

Any person, firm or corporation who violates any provision of this chapter will be issued a citation to be heard in city court, and upon being found in violation, the penalty is fifty dollars (\$50.00) per day or such greater amount as the board of mayor and alderman shall from time to time determine. (as added by Ord. #2010-08, May 2010, and replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, July 2014)

**14-2417. Severability.** If any section or provision of this chapter should be declared by a court of competent jurisdiction to be invalid or unenforceable, such decision shall not affect the validity or enforceability of this chapter as a whole, or any part hereof, other than the part so declared to be invalid or unenforceable. (as added by Ord. #2010-08, May 2010, and replaced by Ord. #2010-16, Oct. 2010, and Ord. #2014-8, July 2014)

## CHAPTER 25

### VETERANS PARKWAY CORRIDOR OVERLAY ZONE

#### SECTION

- 14-2501. Purpose.
- 14-2502. Corridor boundary.
- 14-2503. General provisions.
- 14-2504. Design guidelines.
- 14-2505. Zoning ordinance standards.
- 14-2506. Adoption and effective date.

**14-2501. Purpose.** The purpose of this overlay zone is to incorporate the recommendations of the Veterans Parkway Corridor Study and to provide for future orderly and sustainable growth within the corridor along Veterans Parkway. This new roadway has opened vacant land for development. The Veterans Parkway Corridor Study is a component of a comprehensive plan and has been adopted by the Millington Planning Commission and board of mayor and aldermen as a guide for development within this defined area. (as added by Ord. #2105-17, Sept. 2015)

**14-2502. Corridor boundary.** The boundaries of the Veterans Parkway area are shown on Attachment A to this chapter.<sup>1</sup> (as added by Ord. #2105-17, Sept. 2015)

**14-2503. General provisions.** The Veterans Parkway Corridor Study (corridor study) shall serve as a general guide for development within this corridor.

(1) Existing and proposed land uses shall be consistent with the recommendations of the land use plan, Figure 6 of the corridor study.

(2) Residential areas shall contain full urban improvements, such as curb and gutter, sidewalks and street lighting. Clustering of the homes are encouraged so that natural resources can be protected and amenities provided.

(3) Mixed use areas have been established to provide an integration of residential, professional office and limited neighborhood commercial development. Developments are intended to be connected by pedestrian and vehicular systems to surrounding neighborhoods, parks and greenways. Additionally, they should be connected to neighborhood scale retail, commercial, professional offices and other support services. (as added by Ord. #2105-17, Sept. 2015)

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<sup>1</sup>Attachment A appears at the end of this chapter.

**14-2504. Design guidelines.** Specific guidelines for the development of the areas within the corridor have been established in the corridor study. These are provided in section IV, development recommendations of the corridor study. Six (6) specific examples of typical development and guidelines proposed for the various areas within the overlay boundary have been provided and are made a part of this ordinance as Attachment B-1 and B-2.<sup>1</sup> Guidelines for building development are provided in section V, general architectural guidelines of the corridor study. (as added by Ord. #2105-17, Sept. 2015)

**14-2505. Zoning ordinance standards.** The zoning ordinance requirements are applicable to all portions of the corridor area. However, they may be modified as provided in the ordinance under the provisions of the PRD, Planned Residential District and the MUPD, Mixed Use Planned Development District. These districts provide for modification of certain setback and other standards through the approval of overall development plans of larger tracts and areas. In addition, there are specific front setback modifications within this overlay zone that apply to all properties within the corridor. These only apply to the building front yard and are subject to site plan approval of the planning commission as provided in the ordinance. The minimum front yard setbacks within the Veterans Parkway Corridor are:

<u>Zoning District</u>	<u>Minimum Front Yard Setback</u>
R-4 Residential (applies only to Townhouse use)	0 feet
B-1 Neighborhood Commercial	10 feet
B-2 General Commercial	10 feet
P-C Planned Commercial	10 feet
O Office	10 feet
M-1 Light Industrial	20 feet
M-2 General Industrial	30 feet

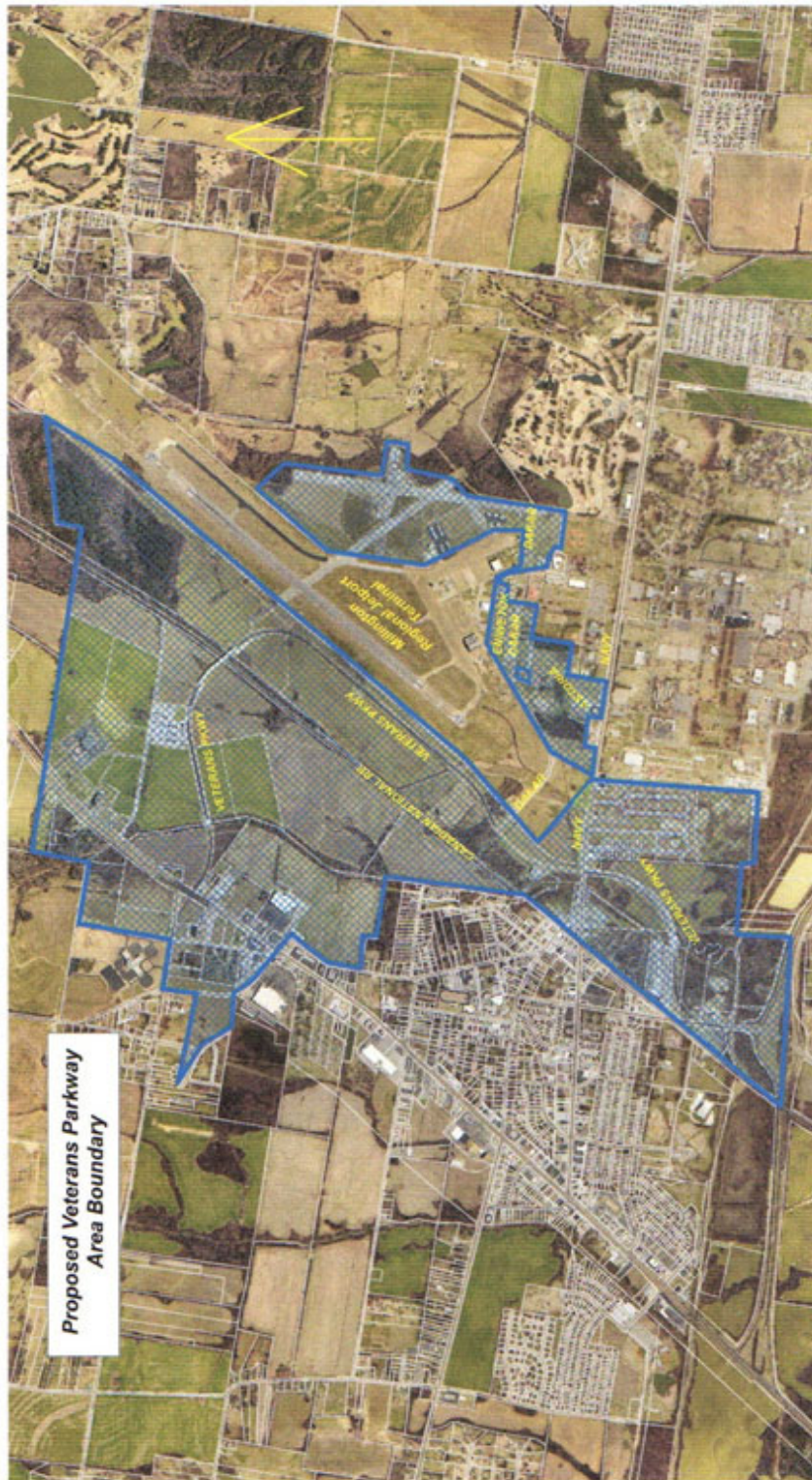
All other requirements of the zoning ordinance are applicable unless they are further modified under a planned residential development or mixed use planned development. (as added by Ord. #2105-17, Sept. 2015)

**14-2506. Adoption and effective date.** The Veterans Parkway Overlay Zone shall be established and in effect upon recommendation for approval by the Millington Planning Commission and adoption as an ordinance by the Millington Board of Mayor and Aldermen. (as added by Ord. #2105-17, Sept. 2015)

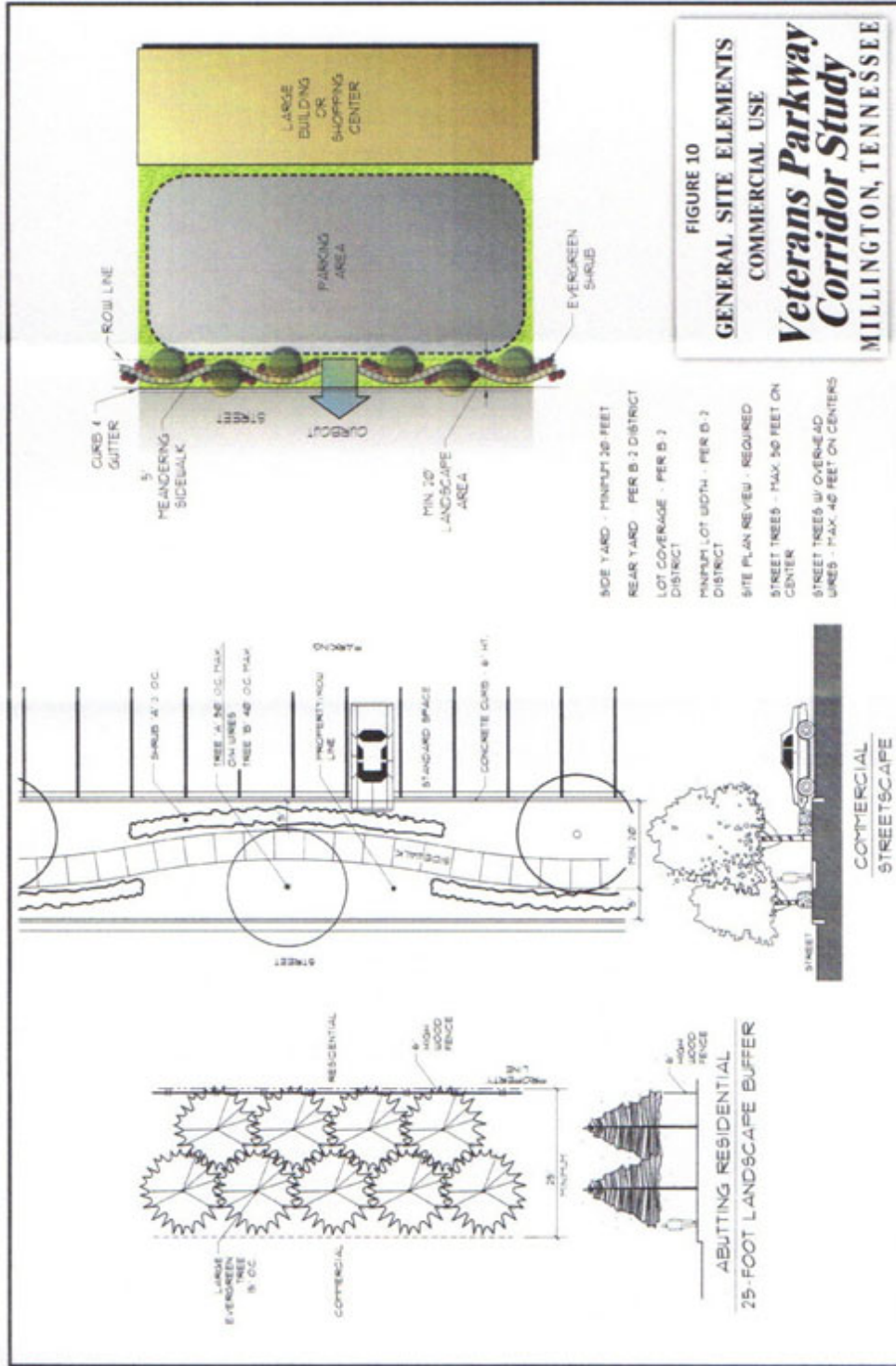
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<sup>1</sup>These attachments appear at the end of the chapter.

Attachment A, Veterans Parkway Corridor Boundary

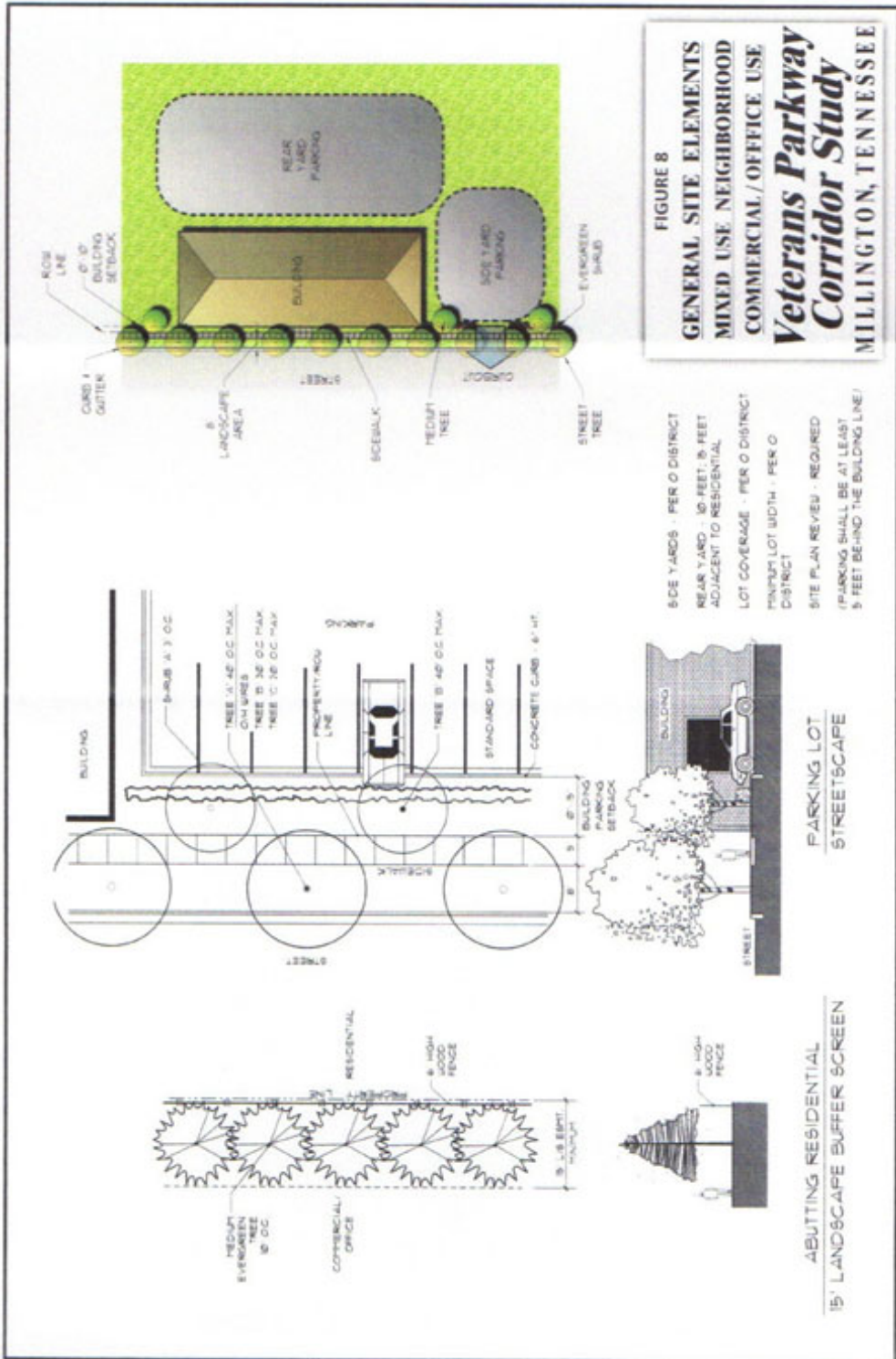


Attachment B-1





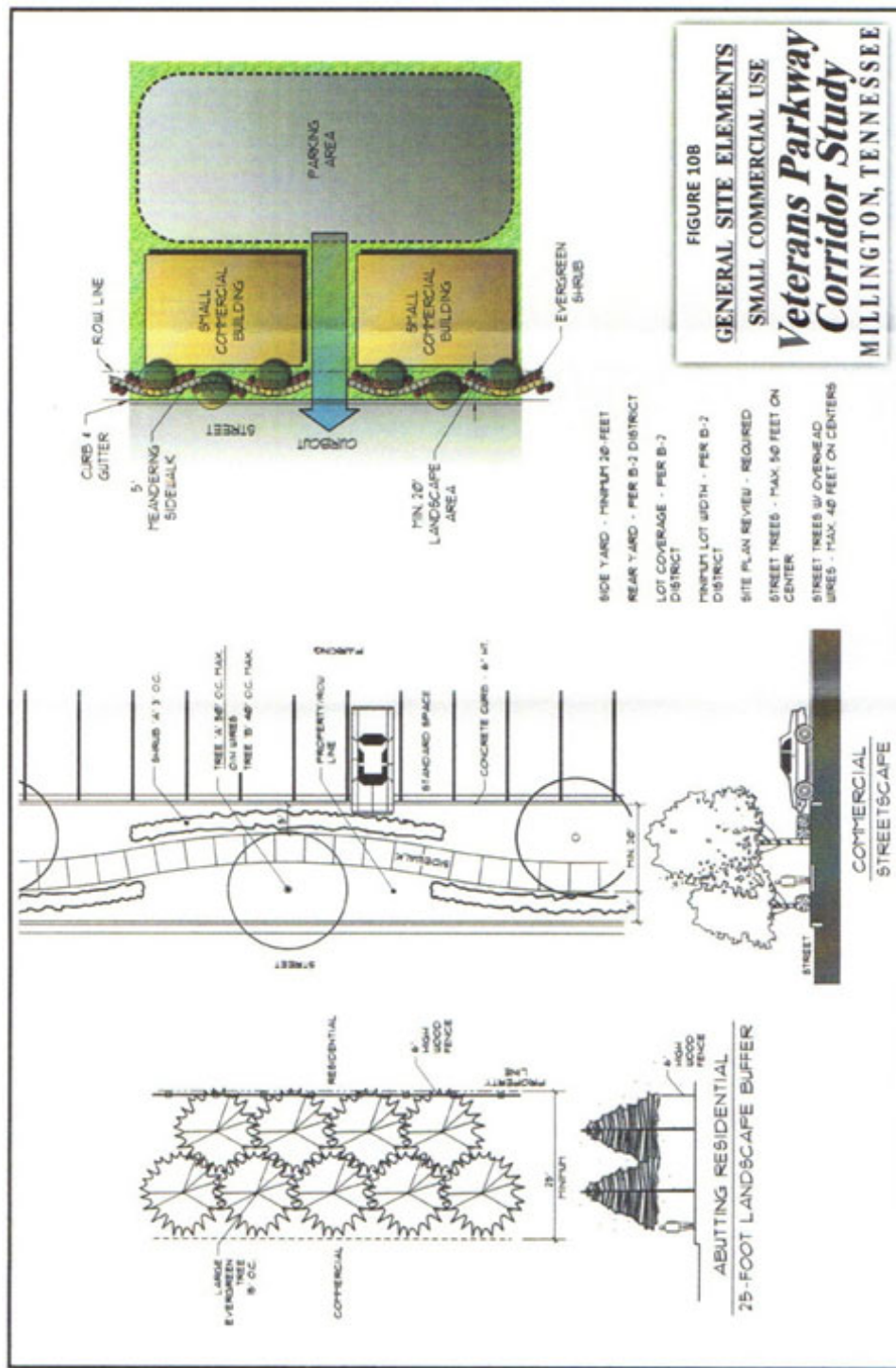








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(as added by Ord. #2015-17, Sept. 2017)

## CHAPTER 26

### ENTERTAINMENT RECREATION DISTRICT

#### SECTION

14-2601. Purpose.

14-2602. E-R entertainment recreation district.

14-2603. Adoption and effective date.

**14-2601. Purpose.** The purpose of this district is to provide for the development of public and/or privately owned recreational areas that provide a high level of recreational entertainment than is normally found in a public park. These activities are further described in § 14-2602 below and are made available to the general public with an entry fee. The specific purpose of this district is to provide land for a water park, defined as: An amusement park with facilities (such as pools and wetted slides) for primarily aquatic recreation. The use is normally a large outdoor area with aquatic rides, shows, refreshments and food service and other entertainment. (as added by Ord. #2019-13, May 2019 *Ch16\_6-29-20*)

**14-2602. E-R entertainment recreation district.** Within the areas designed for E-R on the Zoning Map of the City of Millington, Tennessee, the following provisions shall apply:

- (1) Uses permitted. (a) Lakes and pools with water slides.
  - (b) Lazy rivers.
  - (c) Ropes courses.
  - (d) Ziplines.
  - (e) Wake boarding lakes and areas.
  - (f) Entrance buildings and gift shops.
  - (g) Event buildings and assembly areas.
  - (h) Restaurants and snack areas.
  - (i) Other similar uses as may be requested and approved by the Millington Planning Commission.

Note: All uses are subject to site plan approval by the planning commission as provided in § 14-1201 of this chapter.

- (2) Minimum lot area: Twenty-five (25) acres.
- (3) Minimum lot width: Two hundred feet (200').
- (4) Minimum lot front yard: Fifty feet (50').
- (5) Minimum lot side yard: Three-hundred feet (300') where the use is adjacent to single family residential, and twenty five feet (25') in all other locations.

- (6) Minimum rear yard: Three-hundred feet (300') where the use is adjacent to single family residential use, and twenty five feet (25') in all other locations.
- (7) Maximum height: All structures shall not exceed thirty-five feet (35').

This limitation shall not apply to flagpoles, antennas and towers required for ziplines or waterslides provided they comply with the provisions of all pertinent codes and ordinances and provided they are located a distance equal to their height plus ten feet (10') from the nearest property line adjacent to residential.

All buildings and structures located within the horizontal zone of any airport runway shall be subject to the regulations pertaining to such approach zone.

(8) Accessory buildings. Accessory buildings are permitted subject to all setbacks and requirements set forth in this section and are also subject to site plan review as provided in § 14-1201.

(9) Parking requirements. One (1) space for each four (4) customers at maximum capacity.

(10) Sign regulations. The sign regulations shall be the consistent with chapter 24 of the zoning ordinance, § 14-2402. Sign requirements for commercial businesses. (as added by Ord. #2019-13, May 2019 *Ch16\_6-29-20*)

**14-2603. Adoption and effective date.** The entertainment recreation district shall be established and in effect upon recommendation for approval by the Millington Planning Commission and adoption as an ordinance by the Millington Board of Mayor and Aldermen. (as added by Ord. #2019-13, May 2019 *Ch16\_6-29-20*)

**CHAPTER 27****FIREWORKS SALES OVERLAY DISTRICT****SECTION**

14-2701. Purpose.

14-2702. FW--fireworks sales overlay district.

14-2703. Adoption and effective date.

**14-2701. Purpose.** The purpose of this district is to provide land area for the temporary sales of fireworks consistent with the requirements and conditions of the City of Millington Fireworks Ordinance and any other conditions that may be deemed appropriate by the planning commission and board of mayor and aldermen. For the purposes of this chapter, the FW district shall represent an overlay zoning of the B-2, general commercial district and the P-C, planned commercial district that permits temporary fireworks sales in addition to all other permitted uses as shown on Chart 1, Permitted Uses. The following restrictions shall apply. (as added by Ord. #2019-12, May 2019 *Ch16\_6-29-20*)

**14-2702. FW--fireworks sales overlay district.** (1) Submittal requirements. A site concept plan shall be submitted, drawn to scale, showing the location of all structures and storage trailers on the property, parking areas, storage facilities, etc. The concept plan must include the dimensions of the property and the exact location of all structures, including the distances between structures and property lines and other structures. Indicate where electrical service is to be provided. Provide information on the type of temporary structure that will be provided. All fabric tents shall be fire retardant treated or classified as noncombustible.

(2) Site design. All structures shall conform to the setbacks of the underlying zoning. All storage shall be located at the rear of the site. All storage must be located a minimum of fifty feet (50') from the sales structure.

(3) Access and parking. (a) A minimum of ten (10) parking spaces must be provided and one (1) shall be accessible in accordance with the Millington Zoning Ordinance. The parking areas shall be gravel as a minimum. There shall be no parking on the grass or other vegetated areas to avoid a fire hazard.

(b) All new drives shall be located as approved by the planning commission and shall be approved by the State of Tennessee if the facility is located on a state route.

(c) No person will be allowed within any street right-of-way flagging or directing traffic. No interference with the flow of traffic shall be permitted.



(4) Restroom. Each fireworks stand must provide a portable restroom if there are not restrooms available on the site.

(5) Signs and banners. There shall be no more than one (1) sign or banner located on or attached to the fireworks stand or tent. The banner or sign attached to the tent or stand shall not exceed two hundred (200) square feet. No fireworks sales signage is permitted on a trailer located on the site. In addition, one (1) ground sign shall be permitted for each fireworks stand, provided it is located at least fifteen feet (15') from the street right-of-way. The ground sign shall not exceed thirty-two (32) square feet or eight feet (8') in height.

Flashing lights of any type are not permitted. No inflatable objects or other signs of any kind are permitted on the site or on any storage containers. (as added by Ord. #2019-12, May 2019 *Ch16\_6-29-20*)

**14-2703. Adoption and effective date.** The fireworks sales overlay district shall be established and in effect upon recommendation for approval by the Millington Planning Commission and adoption as an ordinance by the Millington Board of Mayor and Aldermen. (as added by Ord. #2019-12, May 2019 *Ch16\_6-29-20*)

## TITLE 15

### MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. AUTOMATED TRAFFIC SIGNAL ENFORCMENT.

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.
- 15-113. Driving through funerals or other processions.

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

<sup>2</sup>State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-114. 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. Following too closely.
- 15-124. Unlawful to drive into, against, or upon parked vehicle or fixed object.
- 15-125. Routes for gravel and concrete trucks.
- 15-126. Registration of motor vehicles.

**15-101. Motor vehicle requirements.** It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1981 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. (1981 Code, § 9-106)

**15-103. Reckless driving.** No person shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1981 Code, § 9-107)

**15-104. One-way streets.** Where the municipality has designated certain streets 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. (1981 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. (1981 Code, § 9-110)

**15-106. Laned streets.** Where the municipality has had 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 right hand lane 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. (1981 Code, § 9-111)

**15-107. Yellow lines.** Where the municipality has had 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 to enter another street, alley or driveway. (1981 Code, § 9-112)

**15-108. Miscellaneous traffic-control signs, etc.**<sup>1</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1981 Code, § 9-113)

**15-109. General requirements for traffic-control signs, etc.** All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,<sup>2</sup> published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the city. This section shall not be construed as being mandatory but is merely directive. (1981 Code, § 9-114)

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<sup>1</sup>Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

<sup>2</sup>This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

**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 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. (1981 Code, § 9-115)

**15-111. Presumption with respect to traffic-control signs, etc.** When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, approved and made official. (1981 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. (1981 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. (1981 Code, § 9-122)

**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. (1981 Code, § 9-124)

**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. (1981 Code, § 9-125)

**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. (1981 Code, § 9-126)

**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. (1981 Code, § 9-127)

**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. (1981 Code, § 9-128)

**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." (1981 Code, § 9-129)

**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. (1981 Code, § 9-130)

**15-121. Damaging pavements.** No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or

otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1981 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 knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1981 Code, § 9-131)

**15-123. Following too closely.** The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent having due regard for the speed of such vehicle, the traffic and the condition of the street. (1981 Code, § 9-118)

**15-124. Unlawful to drive into, against, or upon parked vehicle or fixed object.** It shall be unlawful for the driver of any vehicle while operating such vehicle on a public street or alley to drive such vehicle into, against or upon a parked vehicle or fixed object thereon. (1981 Code, § 9-119)

**15-125. Routes for gravel and concrete trucks.** All gravel and concrete trucks using the public roads and streets of the city shall be confined to the use of Navy Road and the Raleigh-Millington Road. Said gravel and concrete trucks are hereby prohibited from using any other streets or roads within the city except when necessary to make deliveries to construction jobs and then only if the truck owner and/or driver has first obtained a permit from the city clerk. (1981 Code, § 9-120)

**15-126. Registration of motor vehicles.** There is hereby levied an annual license in the sum of thirty dollars (\$30.00) on each motor vehicle owned by a resident of the City of Millington using the public streets and highways of the city. The annual license fee levied by this section shall be due and payable to the county clerk at the time of renewal of each vehicle's state license tag. (1981 Code, § 9-121, as amended by Ord. #2001-09, June 2001, and replaced by Ord. #2016-8, June 2016)



## 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. (1981 Code, § 9-102)

**15-202. Operation of authorized emergency vehicles.**<sup>1</sup> (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red 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. (1981 Code, § 9-103)

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<sup>1</sup>Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:  
§ 15-501.

**15-203. Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1981 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. (1981 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.

15-305. Drivers to operate vehicles safely.

**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. (1981 Code, § 9-301)

**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. (1981 Code, § 9-302)

**15-303. In school zones.** It shall be unlawful for any person to operate or drive a motor vehicle through any school zone or near any playground at a rate of speed in excess of fifteen (15) miles per hour when official signs indicating such speed limit have been posted by authority of the municipality. (1981 Code, § 9-303)

**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. (1981 Code, § 9-304)

**15-305. Drivers to operate vehicles safely.** Notwithstanding any speed limit or zone in effect at the time, or right-of-way rules that may be applicable, every driver shall :

- (1) Operate his vehicle at a safe speed.
- (2) Maintain a safe lookout.
- (3) Use due care to keep his vehicle under control. (1981 Code, § 9-305)

## 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 signaling his intention in accordance with the requirements of the state law.<sup>1</sup> (1981 Code, § 9-401)

**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. (1981 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 roadway being entered. (1981 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. (1981 Code, § 9-404)

**15-405. U-turns.** U-turns are prohibited. (1981 Code, § 9-405)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 5

### STOPPING AND YIELDING

#### SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

**15-501. Upon approach of authorized emergency vehicles.**<sup>1</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1981 Code, § 9-501)

**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. (1981 Code, § 9-502)

**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. (1981 Code, § 9-503)

**15-504. At railroad crossings.** Any driver of a vehicle approaching a railroad grade crossing shall stop within fifty (50) feet but not less than fifteen

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<sup>1</sup>Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

(15) feet from the nearest rail of such railroad and shall not proceed further until he can do so safely:

(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. (1981 Code, § 9-504)

**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. (1981 Code, § 9-505)

**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 placed by the municipality. (1981 Code, § 9-506)

**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. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(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 until the green or "Go" is shown alone 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 at the signal. (1981 Code, § 9-507)

**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. (1981 Code, § 9-508)

**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. (1981 Code, § 9-509)

**15-510. Stops to be signaled.** No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>1</sup> except in an emergency. (1981 Code, § 9-510)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.



## CHAPTER 6

### PARKING

#### SECTION

- 15-601. Generally.
- 15-602. Occupancy of more than one space.
- 15-603. Where prohibited.
- 15-604. Loading and unloading zones.
- 15-605. Parking of trucks, buses, in residential districts.
- 15-606. Parking of non-motorized equipment or vehicles in residential districts.
- 15-607. Violations of §§ 15-605 and 15-606.
- 15-608. Presumption with respect to illegal parking.

**15-601. Generally.** No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this city 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.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1981 Code, § 9-601)

**15-602. 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. (1981 Code, § 9-603)

**15-603. Where prohibited.** No person shall park a vehicle on any street or other public way 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.
- (12) In any parking space designated as being reserved for the physically disabled, pursuant to Tennessee Code Annotated § 55-21-105(a), except a person who meets the requirements for the issuance of a distinguishing placard or license plate or a disabled veteran's plate, as authorized under the provisions of Tennessee Code Annotated, title 55, chapter 21. A vehicle parking in such space shall display a distinguishing placard or license plate, or a disabled veteran's plate as authorized under the provisions of Tennessee Code Annotated, title 55, chapter 21. The penalty for violation of this subsection shall not be less than twenty-five dollars (\$25) nor more than fifty dollars (\$50)
- (13) On grass or any surface that is not asphalt, concrete or other hard surface dustless materials as approved by the city or not completely enclosed within a building. (1981 Code, § 9-604, as amended by Ord. #2018-4, May 2018)

**15-604. 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. (1981 Code, § 9-605)

**15-605. Parking of trucks, buses, in residential districts.** No truck, defined as a motor vehicle used or maintained for the transportation of property having 3 or more axles or having a gross weight of 8000 lbs. including load and vehicle and no bus defined as a motor designed for carrying more than 10 passengers and used for the transportation of persons may be parked in a residential district on the public streets in a residential district except for loading and unloading.

No truck suitable for handling hazardous materials may be parked on the public streets or on private property in a residential district at any time. (1981 Code, § 9-606)

**15-606. Parking of non-motorized equipment or vehicles in residential districts.** No person shall park or knowingly permit any non-motorized vehicle or equipment, such as, but not limited to, campers, trailers, boats and other recreational type equipment on any residential street in the city for a period of time longer than 24 hours consecutively. (1981 Code, § 9-607)

**15-607. Violations of §§ 15-605 and 15-606.** Any violation of § 15-605 and § 15-606 shall be a misdemeanor and punishable by a fine of not to exceed fifty dollars (\$50.00). (1981 Code, § 9-608, modified)

**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. (1981 Code, § 9-705)

## CHAPTER 7

### ENFORCEMENT

#### SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Citations for illegal parking.
- 15-703. Failure to obey citation.
- 15-704. Impoundment of vehicles.
- 15-705. Violation and penalty.

**15-701. Issuance of traffic citations.**<sup>1</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1981 Code, § 9-702)

**15-702. Citations for 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 traffic citation for the driver and/or owner to answer to the charge against him within ten (10) days during the hours and at a place specified in the citation. (1981 Code, § 9-703)

**15-703. 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.

In the event any person fails to comply with a traffic citation ticket given to such person or attached to a vehicle or fails to make appearance pursuant to a summons directing an appearance in the traffic court, or if any person fails or

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

refuses to deposit bail as required, he shall be subject to arrest upon the issuance of a warrant. (1981 Code, § 9-704)

**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 vehicle which is illegally parked, apparently abandoned, or otherwise parked so as to constitute an obstruction or hazard to normal traffic. Such an 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. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost shall be one dollar (\$1.00) for each twenty-four (24) hour period shall also be charged. (1981 Code, § 9-701)

**15-705. Violation and penalty.** Unless otherwise provided, any violation of this title shall be a civil offense punishable as follows: Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

## CHAPTER 8

### AUTOMATED TRAFFIC SIGNAL ENFORCEMENT

#### SECTION

- 15-801. Definitions.
- 15-802. Administration.
- 15-803. Offense.
- 15-804. Procedure.
- 15-805. Penalty.
- 15-806. Exemptions.
- 15-807. Miscellaneous.

**15-801. Definitions.** The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning.

- (1) "Citations and warning notices" shall include:
  - (a) The name and address of the registered owner of the vehicle;
  - (b) The registration plate number of the motor vehicle involved in the violation;
  - (c) The violation charged;
  - (d) The location of the violation;
  - (e) The date and time of the violation;
  - (f) A copy of the recorded image;
  - (g) The amount of the civil penalty imposed and the date by which the civil penalty should be paid, which shall be within thirty (30) days following the date of mailing of the citation;
  - (h) A signed statement by a member of the Millington Police Department that based on inspection of recorded images, the motor vehicle was being operated in violation of § 15-803;
  - (i) A statement that recorded images are evidence of a violation of § 15-803; and
  - (j) Information advising the person alleged to be liable under this chapter:
    - (i) Of the manner and time in which liability alleged in the citation occurred and that the citation may be contested in the Millington City Court; and
    - (ii) Warning that failure to contest in the manner and time provided shall be deemed an admission of liability, and that a default judgment may be entered thereon.
- (2) "In operation" means operating in good working condition.
- (3) "Recorded images" means images recorded by a traffic control photographic system:
  - (a) On: (i) A photograph; or

- (ii) A microphotograph; or
- (iii) An electronic image; or
- (iv) A videotape; or
- (v) Any other medium; and

(b) At least one (1) image or portion of tape, clearly identifying the registration plate number of the motor vehicle.

(4) "Speed violations" will include on the data bar the legal speed and verified violation speed of the vehicle, as well as the location and vehicle ownership information.

(5) "Stop line" is a transverse white marking at an approach to an intersection that indicates a point behind which all vehicles must stop when so required by a traffic control sign, signal or device.

(6) "System location" is the approach to an intersection toward which a photographic, video or electronic camera is directed and in operation.

(7) "Traffic control photographic system" is an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control sign, signal or device, and to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control sign, signal or device.

(8) "Vehicle owner" is the person identified by the Tennessee Department of Safety or other states' motor vehicle registration departments as the registered owner of a vehicle or the lessee of a vehicle under a lease of six (6) months or more. (as added by Ord. #2009-15, July 2009, and replaced by Ord. #2009-22, Nov. 2009, and Ord. #2010-05, March 2010)

**15-802. Administration.** (1) The city police department or an agent of the department shall administer the traffic control photographic systems and shall maintain a list of system locations where traffic control photographic systems are installed.

(2) Signs to indicate the use of traffic control photographic systems shall be clearly posted. Signs to indicate the use of traffic control photographic systems shall be posted in advance of individual system locations and may be posted elsewhere in the city.

(3) The city shall adopt procedures for the issuance of citations and warnings under this chapter. A citation or warning alleging that the violation of § 15-803 occurred, sworn to or affirmed by officials or agents of the city based on inspection of recorded images produced by a traffic control photographic system, shall be prima facie evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation of this chapter.

(4) The citation or warning shall be sent by first-class mail to the vehicle owner's address, as given on the motor vehicle registration records maintained by the Tennessee Department of Safety and other states' motor vehicle registration departments, within thirty (30) days after the date of the

alleged violation. Personal delivery to or personal service of process on the vehicle owner shall not be required.

(5) The City of Millington shall have all necessary power and authority to contractually provide for the purchase, lease, rental, acquisition of equipment required to implement this chapter, and/or to enter into one or more service contracts to fully and necessarily implement the traffic control photographic system and the provisions of this chapter authorized hereby.

(6) The city may contract with third parties to perform ministerial and clerical functions. No third party contractor shall have the authority to issue citations, and no citations shall be issued except upon the review of the photograph(s), digital and/or video images by the Millington Police Department. Upon review of such images by the Millington Police Department, and upon express approval for the issuance of a citation by the Millington Police Department, a third party contractor may perform the ministerial and clerical functions of preparing, mailing, serving and/or processing citations. (as added by Ord. #2009-15, July 2009, and replaced by Ord. #2009-22, Nov. 2009, and Ord. #2010-05, March 2010)

**15-803. Offense.** (1) It shall be unlawful for a vehicle to cross the stop line at a system location in disregard or disobedience of the traffic control sign, signal or device at such location, or to otherwise violate any section of the Millington Municipal Code with respect to obedience to traffic lights, stop signs or traffic signals.

(2) It shall be unlawful for any vehicle to exceed the lawful rate of speed established for any location in the City of Millington. (as added by Ord. #2009-15, July 2009, and replaced by Ord. #2009-22, Nov. 2009, and Ord. #2010-05, March 2010)

**15-804. Procedure.** (1) A person who receives a citation or warning notice under this chapter may:

(a) Pay the civil penalty in accordance with instructions on the citation, directly to the City of Millington; or

(b) Elect to contest the citation of the alleged violation in a hearing before the City Judge of the Millington Municipal Court, in accordance with the instructions on the citation.

(2) Liability under this chapter shall be determined based upon preponderance of the evidence. Admission into evidence of a citation or warning notice, together with proof that the defendant was, at the time of the alleged violation, the vehicle owner shall permit the trier of fact in its discretion to infer such vehicle owner was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the vehicle owner:

(a) Testifies under oath in open court that the owner was not the operator of the vehicle at the time of the alleged violation, and the trier of fact accepts such testimony as true; or



(b) Furnishes to the city court, prior to the return date established on the citation or warning notice, the vehicle owner's sworn and notarized affidavit or statement, under penalty of perjury, that the vehicle was in the care, custody or control of another person or entity at the time of the violation and accurately identifying the name and accurately stating the current address and relationship to or affiliation with the vehicle at the time of the alleged violation; or

(c) Furnishes to the city court, prior to the return date established on the citation or warning notice, a certified copy of a police report showing that the vehicle or the registration plates had been reported to the police as stolen prior to the time of the alleged violation or within a timely manner after the alleged theft occurred; or

(d) Furnishes to the city court, prior to the return date established on the citation or warning notice, an affidavit or statement under penalty of perjury signed by the vehicle owner and notarized, stating that at the time of the alleged violation the vehicle involved was stolen or was in the care, custody or control of some other person who did not have the vehicle owner's permission to use the vehicle. If the vehicle owner elects to present such an affidavit or statement, the affidavit or statement must include one (1) of the following statements:

(i) The actual operator of the vehicle at the time of the alleged violation is unknown to the vehicle owner; or

(ii) The actual operator of the vehicle at the time of the alleged violation is known to the vehicle owner. If the affidavit or statement includes this sentence, then the affidavit or statement must also include information accurately identifying the name and current address of the driver of the vehicle at the time of the alleged violation.

(e) In the case of a commercial vehicle with a registered gross weight of ten thousand (10,000) pounds or more, a tractor vehicle, a trailer operated in connection with a tractor vehicle, or a passenger bus, in order to demonstrate that the vehicle owner was not the violator, the vehicle owner shall, in a letter mailed to the city court by certified mail, return receipt requested:

(i) State that the person named in the citation was not operating the vehicle at the time of the violation; and

(ii) Provide the name, address and driver's license identification number and state of issuance of the person who was operating the vehicle at the time of the violation.

(f) In the event a vehicle owner provides a name and address of a person or entity, other than the vehicle owner, who had leased, rented or otherwise had care, custody, control or possession of the vehicle at the time of the alleged violation, the city shall then issue a citation or warning to the person or entity so identified. (as added by Ord. #2009-15,

July 2009, and replaced by Ord. #2009-22, Nov. 2009, and Ord. #2010-05, March 2010)

**15-805. Penalty.** (1) Any violation of the chapter shall be deemed a civil violation, for which a civil penalty of fifty dollars (\$50.00) shall be assessed.

(2) Failure to pay the civil penalty by the designated date, or to appear in the city court to contest the citation on the designated date, or to otherwise provide the information required under § 15-804, shall be deemed an acknowledgment by the vehicle owner of an indebtedness to the City of Millington of fifty dollars (\$50.00) and shall result in imposition of the stated fine and assessment of court costs and litigation tax by default judgment.

(3) No additional penalty or other costs shall be assessed for nonpayment of a citation that is based solely on evidence obtained from a surveillance camera installed to enforce or monitor traffic violations, unless a second notice is sent by first class mail to the vehicle owner, and the second notice provides for an additional thirty (30) days for payment of the citation. If the city sends a second notice to the vehicle owner, and the vehicle owner fails to pay the civil penalty within such time, the city court shall have the authority to enter a default judgment against the vehicle owner in the amount of the fifty dollar (\$50.00) civil penalty, an administrative fee/late fee in the amount of seventy-five dollars (\$75.00).

(4) If the violator fails to pay the civil penalty within thirty (30) days after the mailing of the second notice, then in addition to assessment of the administrative fee/late fee provided for above, the city shall have the right to engage a collection agency, either directly or through its photographic system contractor, to collect the unpaid civil penalty, fees and costs. In addition, the city shall have the right to collect from the violator the collection agency's fees, which shall not exceed forty percent (40%) of the sums collected as consideration for the civil penalty, fees and costs.

(5) The amount of any civil penalty, fees, costs or any judgment entered by the city court pursuant to this chapter shall constitute a debt to the city, and the city may enforce said judgment and collect said debt in the same manner as any other debt to the city.

(6) When a vehicle owner has provided evidence satisfactory to the city court that another person was the vehicle operator at the time of the violation, the same procedures set out above shall apply to such person as to the sending of notices, and payment of the civil penalty, administrative fee/late fee, court costs and litigation tax as are applicable to the vehicle owner.

(7) A violation for which a civil penalty is imposed under this section shall not be considered a moving violation and may not be recorded by the police department or the Tennessee Department of Safety or any other state's comparable department on the driving record of the vehicle owner or other driver of the vehicle and may not be considered in the provision of motor vehicle

insurance coverage. (as added by Ord. #2009-15, July 2009, and replaced by Ord. #2009-22, Nov. 2009, and Ord. #2010-05, March 2010)

**15-806. Exemptions.** The owners of the following vehicles are exempt from receiving a notice of violation:

- (1) Emergency vehicles with active emergency lights;
- (2) Vehicles moving through the intersection to avoid or clear the way for a marked emergency vehicle;
- (3) Vehicles under police escort; and
- (4) Vehicles in a funeral procession. (as added by Ord. #2009-15, July 2009, and replaced by Ord. #2009-22, Nov. 2009, and Ord. #2010-05, March 2010)

**15-807. Miscellaneous.** All recorded images generated by the automated traffic control photograph shall be solely owned by the City of Millington. (as added by Ord. #2009-15, July 2009, and replaced by Ord. #2009-22, Nov. 2009, and Ord. #2010-05, March 2010)

## TITLE 16

### STREETS AND SIDEWALKS, ETC<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. SIDEWALK REPAIRS.

#### 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. Unlawful for business not to maintain adjacent paved areas.
- 16-115. Basketball goals and skateboard ramps within or alongside street rights-of-way.

**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. (1981 Code, § 12-101)

**16-102. Trees projecting over streets, etc., regulated.** It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1981 Code, § 12-102)

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

**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. (1981 Code, § 12-103)

**16-104. Projecting signs and awnings, etc., restricted.**

Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.<sup>1</sup> (1981 Code, § 12-104)

**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. (1981 Code, § 12-105)

**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. (1981 Code, § 12-106)

**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. (1981 Code, § 12-107)

**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. (1981 Code, § 12-108)

**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 remove all accumulated snow and ice from the abutting sidewalk. (1981 Code, § 12-109)

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<sup>1</sup>Municipal code reference

Building code: title 12, chapter 1.

**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 city clerk. No permit shall be issued by the city clerk unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1981 Code, § 12-110)

**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. (1981 Code, § 12-111, 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 knowingly to allow any minor under his control to violate this section. (1981 Code, § 12-112)

**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. (1981 Code, § 12-113)

**16-114. Unlawful for business not to maintain adjacent paved areas.** It shall be unlawful for any person, partnership, or corporation, or their lessees, operating a business within the City of Millington to permit the paved areas adjacent to its business location to exist in a state of disrepair that will prevent its intended use and/or the use of fire and police vehicles when necessary.

Such person, partnership or corporation and/or their lessees shall maintain said paved areas in a condition suitable for vehicular traffic.

All violations of §§ 16-101 through 16-114, inclusive, shall be civil offenses and punishable as such. (1981 Code, § 12-114)

**16-115. Basketball goals and skateboard ramps within or alongside street rights-of-way.** 1. No basketball goal or skateboard ramp, whether portable or fixed, shall be placed, erected or maintained on or alongside the right-of-way of any public street within the corporate limits of the City of Millington to allow a person or persons to play basketball or skate within the street.

2. The placement of any basketball goal or any skateboard ramp within a public right-of-way or alongside a public right-of-way or the presence of persons within a public street playing basketball on such a goal or skating on such a skateboard ramp shall be a violation of this section.

3. The violation of this section shall be punishable by a fine of fifty dollars (\$50.00). Each day that a violation continues shall constitute a separate offense. (as added by Ord. #2005-22, Nov. 2005)

## CHAPTER 2

### EXCAVATIONS AND CUTS<sup>1</sup>

#### SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

**16-201. Permit required.** It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the city codes enforcement officer is open for business, and said permit shall be retroactive to the date when the work was begun. (1981 Code, § 12-201, modified)

**16-202. Applications.** Applications for such permits shall be made to the city codes enforcement officer, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all

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<sup>1</sup>State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).



ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the city codes enforcement officer within twenty-four (24) hours of its filing. (1981 Code, § 12-202, modified)

**16-203. Fee.** The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1981 Code, § 12-203)

**16-204. Deposit or bond.** No such permit shall be issued unless and until the applicant therefor has deposited with the city clerk a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the mayor may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the city clerk a surety bond in such form and amount as the city clerk shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1981 Code, § 12-204)

**16-205. Manner of excavating--barricades and lights--temporary sidewalks.** Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1981 Code, § 12-205)

**16-206. Restoration of streets, etc.** Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town, but shall be paid for by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley,

or public place, the city codes enforcement officer shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1981 Code, § 12-206, modified)

**16-207. Insurance.** In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the city clerk in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1981 Code, § 12-207)

**16-208. Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the city clerk. (1981 Code, § 12-208)

**16-209. Supervision.** The city codes enforcement officer shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1981 Code, § 12-209, modified)

**16-210. Driveway curb cuts.** No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the city codes enforcement officer. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an

unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1981 Code, § 12-210, modified)

## CHAPTER 3

### SIDEWALK REPAIRS

#### SECTION

16-301. Maintenance of sidewalks in good repair.

16-302. Notice.

16-303. Repairs by city.

16-304. Assessment of repair costs against owner.

16-305. Handicap ramp.

16-306. Citizens committee to hear appeals.

**16-301. Maintenance of sidewalks in good repair.** All property owners within the City of Millington, both residential and commercial, shall keep the sidewalks, driveway aprons and inlets abutting or adjoining their property in good condition and repair. (as added by Ord. #2003-47, Feb. 2004)

**16-302. Notice.** 4. When the codes enforcement officer of the city or his authorized representative shall determine that all or any part of a sidewalk, driveway apron or inlet is in need of repair, such officer shall give written notice thereof to the owner of the abutting or adjoining property or his duly authorized agent. The codes enforcement officer shall also deliver written notice of the need for repairs to the keeper of the city's tax records, and such notice shall be filed in the tax records for the abutting or adjoining property in order to notify persons who may be purchasers of such property. This notice shall be removed from the tax records when the property owner has completed the repairs and they have been approved by the city.

5. Notice to the abutting or adjoining property owner or his agent shall be given either by personal service on, or by certified letter addressed to the last known address of, the owner or his duly authorized agent. Proof of the personal service or mailing of such notice shall be complete compliance with this provision. In the case of nonresident and/or unknown owners, publication of the notice by one insertion in a newspaper of general circulation in the city shall be complete compliance with this provision as to notice.

6. The notice shall specify the needed repairs and shall state that:

a. The repairs must conform to all standards adopted and in effect under city subdivision regulations, city building codes and other related city-adopted technical codes;

b. The completed work must be inspected and approved by the codes enforcement officer;

c. The necessary repairs must be completed within ninety (90) days after the date of personal service, mailing or publication of the notice; and

d. If the repairs are not completed within such ninety (90) days, the city will perform the necessary repairs, and the costs thereof will be assessed against the abutting or adjoining property owner. (as added by Ord. #2003-47, Feb. 2004)

**16-303. Repairs by city.** Upon the failure of the abutting or adjoining property owner to comply with the provisions of this chapter or the official notice from the city codes enforcement officer, such officer shall deliver to the city department of public works a copy of the repair notice previously sent to the property owner. The department of public works shall thereupon have the necessary repairs done either by its staff or by contract with a private vendor.

The city shall repair sidewalks that are above storm water drains and have been damaged by storm water runoff or by broken water or sewer lines. (as added by Ord. #2003-47, Feb. 2004)

**16-304. Assessment of repair costs against owner.** 1. The costs of repairs done by the city shall be assessed against the owner of the abutting or adjoining property, who shall be notified of such costs by personal service, certified mail, or publication, as provided in § 16-302. If the costs have not been paid within thirty (30) days of such notice, the department of public works shall certify the amount of costs to the keeper of the city tax records, and such costs shall be a lien on the abutting or adjoining property and may be enforced by suit in any court of competent jurisdiction. As an additional and cumulative remedy, the amount of the costs may be placed on the bill for city taxes assessed against the abutting or adjoining property, and such costs shall be a special improvement tax, to be collected in the same manner as city real property taxes are collected.

2. Costs of repairs preformed by the city and assessable to the abutting or adjoining property owner shall include the actual construction costs, including removal and disposal of old sidewalks, driveway aprons or inlets, temporary repairs and barricading, materials and labor, and administrative costs in the greater of \$100.00 or fifteen percent (15%) of the actual construction costs, plus all costs of enforcement of this chapter and of collection incurred by the city, including reasonable attorney fees. (as added by Ord. #2003-47, Feb. 2004)

**16-305. Handicap ramp.** If a sidewalk section that must be replaced is in a location where a handicap access ramp is required, the curb shall be removed and the ramp installed in accordance with applicable law and regulations at such time. The city shall pay a portion of the cost of installing handicap ramps by delivering a check in the amount of \$200.00 to the property owner after installation of the ramp; provided, however, that the city shall have no obligation to pay any part of the cost of the handicap ramp if the department of public works makes the repairs because the property owner has failed or

refused to do so within the required time. The city, at its cost, will install handicapped ramps in residential areas in accordance with applicable laws and regulations. (as added by Ord. #2003-47, Feb. 2004)

**16-306. Citizens committee to hear appeals.** The board of mayor and aldermen shall appoint a committee of citizens of the city to hear and decide appeals or hardship cases. The committee shall have the power to waive payment of administrative costs when hardship is proven. (as added by Ord. #2003-47, Feb. 2004)

## TITLE 17

### REFUSE AND TRASH DISPOSAL<sup>1</sup>

#### CHAPTER

1. REFUSE.
2. RESIDENTIAL YARD WASTE, APPLIANCES AND OTHER DEBRIS.

#### CHAPTER 1

#### REFUSE

#### SECTION

- 17-101. Refuse defined.
- 17-102. Residential service defined.
- 17-103. Non-residential cart service defined.
- 17-104. Service required.
- 17-105. Premises to be kept clean.
- 17-106. Storage.
- 17-107. Placement for collection.
- 17-108. Disturbing containers.
- 17-109. Timing of collection.
- 17-110. Collection vehicles.
- 17-111. Wrongful disposal.
- 17-112. Refuse collection service charges.
- 17-113. Tires.
- 17-114. Contractor generated refuse and trash.
- 17-115. Only same-site generated refuse.

**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. (1981 Code, § 8-201, as replaced by Ord. #2015-13, Sept. 2015)

**17-102. Residential service defined.** Residential property is defined as any housing unit providing single family occupancy up to and including five units with each unit requiring separate service from the city. All other property shall be defined as non-residential for the purpose of this title. (1981 Code, § 8-202, as replaced by Ord. #2015-13, Sept. 2015)

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

**17-103. Non-residential cart service defined.** Non-residential cart service is available for any non-residential entity, such as a church or business, which only produces a small amount of refuse on a weekly basis. Any such entity that can limit itself to one (1) cart may receive such service. This service only provides for collection of what is placed in the cart. Carts not placed curbside will not be collected. (1981 Code, § 8-203, modified, as replaced by Ord. #2011-11, Dec. 2011, Ord. #2015-13, Sept. 2015, Ord. #2018-6, June 2018, and Ord. #2018-15, Nov. 2018 *Ch16\_6-29-20*)

**17-104. Service required.** All residential properties with active electrical service must have service from the city, and all occupied non-residential properties must have service from a licensed private contractor or the city. The account activation service charge established in § 18-108 of title 18 of this code shall apply to accounts without water and/or sewer service and shall be deposited in the sanitation fund. Vacant property without current service may not place refuse or trash for disposal without prearrangement with the city. Such arrangement requires payment in advance at the rate of one hundred dollars (\$100.00) per truckload or any part thereof. (1981 Code, § 8-204, modified, as replaced by Ord. #2011-11, Dec. 2011, amended by 2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015, and Ord. #2019-24, Dec. 2019 *Ch16\_6-29-20*)

**17-105. 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 title. (1981 Code, § 8-205, as replaced by Ord. #2015-13, Sept. 2015)

**17-106. Storage.** (1) Duty to have containers. It shall be the duty of every person in possession, charge or control of any premises where solid waste is created or accumulated and in the case of multiple dwellings or multiple occupancy, the owner of the premises, at all times to keep or cause to be kept a sufficient number of containers for the deposit of garbage generated on the premises. Only containers issued by the city shall be used for residential collection service or non-residential cart service provided by the city. It shall be incumbent upon every person in possession, charge or control of any premises to which a cart has been issued to insure the security of such cart from the perils of theft and damage. The cost of damage or loss occurring to a cart as a result of a failure to adequately secure it shall be borne by the person in possession, charge or control of the premises who shall also be responsible for reporting any damage or loss of the cart to staff at city hall as soon as the damage or loss is realized. The cost of damage to the cart caused by fire shall be borne by the person in possession, charge or control of the premises, without regard to the time or location of the cart when such damage occurs.

(2) Container requirements. Lids or covers of all garbage containers shall be kept tightly closed at all times other than when solid waste is being



deposited therein or removed therefrom. Containers used for the deposit of solid waste for collection by the city shall be in good condition so that the collection thereof shall not injure the person collecting the contents. Containers having ragged or sharp edges or other defects must be promptly reported to staff at city hall for replacement or repair.

(3) Fifty-five gallon drums prohibited. Fifty-five (55) gallon drums are specifically prohibited from use as containers for solid waste.

(4) Cleanliness. It shall be the duty of both the person in possession, charge or control of any premises, as well as the owner of the premises, to comply with the provisions of this subsection regarding the cleanliness of the premises and keeping containers properly closed. (1981 Code, § 8-206, as amended by Ord. #2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015)

**17-107. Placement for collection.** By 7:00 A.M. on the scheduled collection day for city provided sanitation service, the refuse cart(s) shall be placed curbside in front of the house; on the grassy area between curbside and the sidewalk; or at the end of the driveway, at the resident's discretion, for collection, unless public works has designated an alley behind the property for collection. If, in those cases where curbside protrudes into the street and becomes a hazard to traffic, public works will inform the resident and containers must be placed on the grassy area between curbside and the sidewalk. In such case the refuse container shall be placed curbside at the alley. Curbside is defined as the side of a street bordered by a curb. Physically disabled service may be obtained by sending a letter addressed to city hall requesting a waiver for curbside pickup. The city reserves the right to require a statement from a physician to document the need for a waiver.

Properties within residential service (excluding non-residential cart service) may place up to two (2) additional bags of garbage on or beside their city provided cart on an occasional basis. Properties that the city determines to regularly have two (2) or more extra bags shall be required to have an additional cart(s).

Refuse carts may be placed curbside no earlier than 2:00 P.M. on the day before the scheduled collection day. As soon as practical after such carts have been emptied and no later than 8:00 P.M. on collection day, they shall be removed by the owner to within, or to the rear of, his premises and away from the street line. Penally for failure to comply with the time limitations of the cart being removed from curbside shall be a fifty dollar (\$50.00) fine with each day being a separate offense. (1981 Code, § 8-207, as replaced by Ord. #2015-13, Sept. 2015, as replaced by Ord. #2019-8, April 2019 *Ch16\_6-29-20*)

**17-108. 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 ordinance shall not be construed to prohibit

the use of public refuse containers for their intended purpose. (1981 Code, § 8-208, as replaced by Ord. #2015-13, Sept. 2015)

**17-109. Timing of collection.** Collections shall be made regularly in accordance with an announced schedule, and, as applicable, in accordance with the provisions and requirements of chapter 2 of this title.(1981 Code, § 8-209, as amended by Ord. #1998-14, July 1998; Ord. #2001-11, June 2001; Ord. #2001-16, Dec. 2001; Ord. #2005-11, June 2005; Ord. #2011-04, June 2011, and Ord. #2011-11, June 2012, Ord. #2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015)

**17-110. 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. (1981 Code, § 8-210, as replaced by Ord. #2011-11, June 2012, and Ord. #2015-13, Sept. 2015)

**17-111. Wrongful 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. (as added by Ord. #2001-16, Dec. 2001, as replaced by Ord. #2015-13, Sept. 2015)

**17-112. Refuse collection service charges.** (1) (a) There is hereby imposed a monthly service charge of twenty-four dollars (\$24.00) on each residential dwelling unit and thirty-two dollars (\$32.00) on each non-residential cart service customer for the collection of refuse. This charge is imposed for the maintenance and improvement of the general public health and sanitation. City staff may calculate the prorated amount for partial monthly service.

(b) Residential locations, excluding non-residential cart service, may lease additional refuse carts for eight dollars (\$8.00) each per month in addition to the normal monthly rate. The customer may request to add, delete or change this service level once during the city's fiscal year. Residential locations may be required to lease additional containers if they regularly have more than two (2) extra trash bags placed for collection.

(2) The penalties established under § 18-127 of this code for late payment of water fees shall also apply to refuse collection service charges.

(3) Used home appliances may be picked up following the payment in advance of a service charge of fifty dollars (\$50.00) per appliance. Tags indicating this payment has been made may be obtained at city hall. These tags must be placed on the appliance before the pickup will be made.

(4) The owner of a rental property shall be charged one hundred dollars (\$100.00) per truckload or any part thereof for removal of refuse following an eviction or tenant leaving a property. (as added by Ord. #2011-11, June 2012, replaced by Ord. #2015-13, Sept. 2015, and Ord. #2018-6, June 2018, amended by Ord. #2018-15, Nov. 2018 ***Ch16\_6-29-20***, and Ord. #2019-24, Dec. 2019 ***Ch16\_6-29-20***, and replaced by Ord. #2022-6, June 2022 ***Ch17\_01-09-23***)

**17-113. Tires.** All individuals, property owners and occupants shall be responsible for the storage and/or disposal of used tires in compliance with applicable federal and state laws related to disposal. (as added by Ord. #2011-11, June 2012, as replaced by Ord. #2015-13, Sept. 2015)

**17-114. Contractor generated refuse and trash.** Any customer who hires a third party to perform work on a property shall require the third party contractor to remove all refuse and trash, including yard waste, from the property on completion of the work. (as added by Ord. #2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015)

**17-115. Only same-site generated refuse.** All refuse, including yard waste, appliances and other debris placed at a customer's curbside must be generated from the same property where it is placed for collection by the city. No person shall transport refuse, including yard waste, appliances or debris of any kind from one (1) location to another for the purpose of having it picked up by the city, and it shall be a violation of this title to transport refuse, including yard waste, appliances or other debris to a site other than the property on which it was produced for pickup and disposal by the city. (as added by Ord. #2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015)

## CHAPTER 2

### RESIDENTIAL YARD WASTE, APPLIANCES AND OTHER DEBRIS

#### SECTION

- 17-201. City collection of yard waste, appliance and other debris.
- 17-202. Definition of yard waste.
- 17-203. Definition of other debris.
- 17-204. Grass clippings.
- 17-205. Tree limbs.
- 17-206. Leaves.
- 17-207. Placement for pickup.
- 17-208. Limit on quantity and size per pickup.
- 17-209. Unlawful acts/penalty.

**17-201. City collection of yard waste, appliance and other debris.**

All property receiving city sanitation service, as defined in §§ 17-102 and 17-103, within the City of Millington is eligible to receive city collection and disposal service for yard waste, appliances and other debris, subject to compliance with chapter 1 and chapter 2 of this title. (as added by Ord. #2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015)

**17-202. Definition of yard waste.**

As used in this chapter, "yard waste" means and includes grass clippings, tree limbs, leaves, brush, weeds, landscape pruning, garden plants and other natural materials. Yard waste does not include tree trunks or portions thereof that are larger than the size described in § 17-208 or construction/contractor-related materials such as dirt, concrete, brick, and large amounts of carpet or roofing materials. The city will not provide collection and disposal service for any items defined in the preceding sentence. (as added by Ord. #2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015)

**17-203. Definition of other debris.**

For purposes of this chapter, "other debris" means and includes wood-type construction materials such as two by four (2 x 4) fencing and other similar materials. (as added by Ord. #2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015)

**17-204. Grass clippings.**

Grass clippings will be collected by the city only if they are placed in the city provided cart or bagged in closed and tied bags weighing less than forty (40) pounds each, placed at curbside and subject to the total curbside requirements of § 17-208. (as added by Ord. #2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015)

**17-205. Tree limbs.**

(1) A property owner who hires a third party contractor to cut or trim trees must require the contractor to promptly haul

away the tree limbs or hire another contractor to promptly haul away and dispose of such trees within two (2) weeks.

(2) The city will haul away and dispose of customer removed trees and limbs from customer property, but only if all of the following conditions are met:

(a) Each piece of any tree may not exceed either six feet (6') in length and twelve inches (12") in width or diameter or four feet (4') in length and twenty four inches (24") in width or diameter; and

(b) The total curbside requirements of § 17-208 are met. (as added by Ord. #2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015)

**17-206. Leaves.** The city may offer loose leaf collections with conditions or require bagged leaves for collection.

(1) Bagged leaf collection – provided at any time at no additional cost. Customers desiring leaves to be collected shall either place the leaves in their city provided cart or in closed and tied bags weighing less than forty (40) pounds each, placed at curbside and subject to the total curbside requirements of § 17-208.

(2) Conditions for loose leaf collection. (a) The city shall advertise the dates of loose leaf collection as determined annually by the city manager. The dates shall begin not earlier than November 1, and end not later than March 15. Loose leaves will not be picked up at any other time of year except during this period.

(b) Loose leaves for collection may be placed near the street but shall not be placed in the street, in drainage ditches or on sidewalks. (as added by Ord. #2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015)

**17-207. Placement for pickup.** (1) At the option of the customer, appliances, yard waste and other debris, including bags of grass clippings and bags of leaves, shall be placed at curbside or on the grassy strip between curbside and the sidewalk. Items must be placed away from structures such as mail boxes, fire hydrants, power poles, etc. to allow space for the equipment to operate. Curbside is as defined in § 17-107. If, at any time, placement on curbside is determined to be unsafe by public works, coordination will be effected with the resident for alternative placement. If there are no curbs or sidewalks, placement will be in the yard next to the street. For properties with a drainage ditch bordering the edge of the pavement, if possible, place debris behind the ditch up to a maximum of ten feet (10') from the edge of the pavement. If this is not possible, contact public works for a suitable drop off location.

(2) No yard waste, appliance or other debris shall be placed in a location or in a manner where it will block the view of a motorist.

(3) No yard waste shall be placed on the sidewalk, street or in a drainage ditch or gutter, which would interfere with stormwater runoff under

federal, state, or local regulations. (as added by Ord. #2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015)

**17-208. Limit on quantity and size per pickup.** In order to make collection of yard waste and other debris regular, efficient, and fair to all customers, it is necessary to limit the amount eligible to be picked up at each location each week. The amount of yard waste and other debris that will be picked up at any single location each week shall not be more than the equivalent of one (1) heaping pickup truck load, approximately six (6) cubic yards. Unless waived by the city manager in times of emergency, any customer who has more than six (6) cubic yards of yard waste at any time may:

(1) Keep the yard waste in excess of six (6) cubic yards in his/her rear yards until the following week, at which time it may be put at curbside for pick-up; or

(2) When yard waste exceeds six (6) cubic yards, place all waste at the street and be billed in accordance with rates in § 17-112; or

(3) Hire a private contractor to dispose of the yard waste. (as added by Ord. #2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015, and Ord. #2018-15, Nov. 2018 *Ch16\_6-29-20*)

**17-209. Unlawful acts/penalty.** (1) It shall be unlawful for any person to leave yard waste, appliances, trees or parts of trees, or other debris for pick-up by the city or private contractor, except in accordance with this chapter.

(2) It shall be unlawful to place any yard waste, trash, trees, appliances, or other debris on the paved surface of any street.

(3) There shall be a penalty of up to fifty dollars (\$50.00) for conviction of violation of this chapter. Each day that a violation of this chapter continues after notice of violation is delivered by the city shall constitute a separate violation. (as added by Ord. #2015-6, May 2015, and replaced by Ord. #2015-13, Sept. 2015)

**TITLE 18****WATER AND SEWERS<sup>1</sup>****CHAPTER**

1. WATER AND SEWERS.
2. SEWER USE ORDINANCE.
3. SEWAGE AND HUMAN EXCRETA DISPOSAL.
4. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
5. STORM WATER ORDINANCE.
6. FATS, OILS AND GREASE.

**CHAPTER 1****WATER AND SEWERS****SECTION**

- 18-101. Application and scope.
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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

- 18-125. Development charge.
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- 18-127. Meters.
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- 18-144. Service lines.
- 18-145. Fund Accounting.
- 18-146. Restricted use of water.
- 18-147. Drought management.
- 18-148. Penalties.

**18-101. Application and scope.** The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. The property owner is responsible for all private lines and mains and all plumbing beyond the meter and as such has a responsibility for water use caused by leaks or other malfunctions of the plumbing system. (1981 Code, § 13-101, as amended by Ord. #2011-10, Dec. 2011, and replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-102. Service required.** Every property within the city limits is required to connect to public water and sewer service when available. Property owner must disconnect and cease to use any private well and/or sewer system, including septic system, upon connection to public services. Property owners have until January 1, 2021 to comply with this provision after its adoption. For future water and/or sewer main construction, property owner will have six (6) months after lines are usable to comply. (1981 Code, § 13-102, as amended by Ord. #2011-10, Dec. 2011, and replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)



**18-103. Definitions.** (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the city under either an express or implied contract.

(2) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(3) "Premise" means any property which may be connected to city services. A residential premise is a structure or group of structures. For all other types of premise each building shall be considered a premise.

(4) "Service line" shall consist of the pipe line extending from any water or sewer main of the city to 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.

(5) "City service(s)" shall include, individually and collectively, water, sewer, stormwater and sanitation services. All locations within the city with any service available must have that service, except for commercial sanitation services.

(6) "Account activation service charge" means a non-refundable fee to cover the administrative costs of establishing a new account and sending a service person to the property to turn on service or obtain a meter reading, where necessary. This service charge is separate from any development charge or connection charge.

(7) "Deposit" means any amount required from future customer as a guarantee for future payment for city services.

(8) "Bill amount" means the amount due including current charges and previous unpaid balance, plus or minus any adjustments.

(9) "Common bill" means the bill issued for any single service and/or for any combination of water, sewer, storm-water and sanitation services provided by the city.

(10) "Due date" shall be close of business on the date printed on the bill. Current bills show this as the "pay gross after" date.

(11) "Late payment service charge" means a service charge added to the unpaid amount of any bill not paid in full by due date.

(12) "Past due date" means close of business on the date printed on the bill. Current bills show this as the "last day to pay" date.

(13) "Delinquent account service charge" means a service charge added to any bill not paid in full by past due date.

(14) "Cut-off date" shall be the date printed on the bill.

(15) "Effective date for rates changes" means rate is effective for any bill issued after that date. (1981 Code, § 13-103, as amended by Ord. #2011-10, Dec. 2011, as replaced by Ord. #2019-22, Nov. 2019 *Ch 16\_6-29-20*, and amended by Ord. #2020-1, March 2020 *Ch 16\_6-29-20*)

**18-104. Obtaining service.** A formal application for either original or additional service must be made and be approved by the city before connection

or meter installation orders will be issued and work performed. (1981 Code, § 13-104, modified, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-105. Application and contract for service.** Each prospective customer (applicant) desiring city services will be required to:

(1) Provide proof of ownership of the property or a valid lease signed by the property owner.

(2) Provide proof of employment or other ability to pay monthly bills.

(3) Pay account activation service charge prior to receiving service.

(4) Provide an account deposit if customer is renting residential or commercial property.

(5) Pay all balances unpaid from any previous city services account. Any unpaid bill accruing at any address under a contract with any member of the customer's family, living as such, may be added to any unpaid bill for service contracted for by a customer at the same or any other address, and thereupon shall take the same status as if it had been charged to the customer requesting service.

(6) Sign a service agreement.

Husband and wife are considered the same customer. No existing service may be changed to another customer without the approval of the current customer. A location is not deemed to have a customer if the property has been abandoned by the most recent non-owner customer and payment is delinquent.

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 the provisions of this chapter and general practice, the liability of the City of Millington to the applicant shall be limited to the return of any deposit. (1981 Code, § 13-105, as replaced by Ord. #2001-16, Dec. 2001, amended by Ord. #2010-06, April 2010, and replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-106. Irrigation only service.** Customers with regular water service may request the setting of an additional meter for irrigation purposes only. Such meter may only be connected to customer owned water lines used for ground irrigation and may never connect to plumbing systems that may flow into the city's sewer system or any other sewer system. This meter and water used through it shall be exempt from the sewer fees established in this title. All other provisions and fees or charges contained in the Millington Municipal Code shall apply to this service. (1981 Code, § 13-106, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-107. Fire hydrant meter.** A fire hydrant meter is for access to city owned fire hydrants and shall only be issued to licensed contractors for construction sites. Failure to return the meter in good working order or provide

monthly meter readings as requested by the city shall result in forfeiture of the deposit and shall end the contractor's right to access fire hydrants. All other provisions and fees or charges contained in the Millington Municipal Code shall apply to this service. (1981 Code, § 13-107, as amended by Ord. #1998-6, Aug. 1998, as amended by Ord. #2000-01, April 2000, and replaced by Ord. #2019-16, June 2019 *Ch16\_6-29-20*, and Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-108. Account activation service charge.** For customers obtaining water service from the city, there shall be a non-refundable water account activation service charge. When sewer service is provided, this fee shall be split between the water fund and the sewer fund. This charge covers the cost of establishing the account and checking credit history. This charge is:

(1) Fifty dollars (\$50.00) for each new account opened for a premise, either residential or commercial. Existing customers who move or who add one (1) or more meters, may choose to be billed the service charge.

(2) Twenty-five dollars (\$25.00) for landlords with ten (10) or more single-family or duplex properties and the Millington Housing Authority (MHA) that elect to have a special arrangement whereby city services, including water, remain on and automatically and revert to the landlord's account upon a disconnect order from a tenant.

(3) Fifty dollars (\$50.00) for each temporary service covering no more than seven (7) days ending on a city work day for a home inspection or other short term purpose.

(4) Fifty dollars (\$50.00) for fire hydrant meter. (1981 Code, § 13-108, as replaced by Ord. #1998-16, Aug. 1998, amended by Ord. #2005-5, May 2005, and replaced by Ord. #2019-16, June 2019 *Ch16\_6-29-20*, and Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-109. Customer deposit.** . All new residential account activations, except customers with good payment history, shall require a minimum of a two hundred dollar (\$200.00) deposit prior to the city's providing service. All non-residential account activations, except customers with good payment history, shall be required a deposit between two hundred dollars (\$200.00) and two thousand dollars (\$2,000.00) as determined by the committee established in § 18-119, based on historical or expected use for that property. Good payment history shall be no balance remaining after the due date at any time within the past twelve (12) months.

Such deposit must be paid by cash, credit card, or cashier's check prior to service activation. Landlords, as identified in § 18-108(2) of this code, and commercial property owners with ten (10) or more commercial properties in the city with good payment history, may be billed this deposit for newly acquired properties. After sixty (60) months of service with no more than one (1) delinquent account service charge, customer's deposit will be credited to customer's account. All other customers will have their deposit credited to their final bill with any remainder issued as a check to the customer. If a customer's

account is closed and a new address is not provided for return of any deposit or credit balance, a five dollar (\$5.00) monthly service fee shall be applied to the account.

All account activations for customers requesting a temporary fire hydrant meter shall require a two thousand (\$2,000.00) dollar deposit prior to the city are providing the meter. Such deposit must be paid by cash, credit card or cashier's check. No interest will be paid on this deposit. Deposit will be returned via a credit to the final unpaid balance with any remainder issued as a check to the customer. (1981 Code, § 13-109, as replaced by Ord. #1998-16, Aug. 1998, Ord. #2004-15, Sept. 2004, Ord. #2019-16, June 2019 *Ch16\_6-29-20*, Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*, Ord. #2020-21, Jan. 2021 *Ch17\_01-09-23*, and Ord. #2021-3, March 2021 *Ch17-01-09-23*)

**18-110. Water rates.** (1) All customers shall be billed a base rate plus usage in excess of the base rate each month. Partial month service is not prorated.

(2) Water supplied by the municipal water system and equipped with meters reading gallons will be charged to each customer based upon the following monthly rates:

Base rate	Includes first 2,000 gallons
Additional usage	Each additional 1,000 gallons or part thereof

Effective date	Base rate	Additional use
July 1, 2018	\$ 13.21	\$ 4.43
July 1, 2019	\$ 14.56	\$ 4.88
July 1, 2020	\$ 15.91	\$ 5.33

Beginning July 1, 2021, the water rates shall be adjusted each year for bills issued at the end of July based on the percentage increase in the December Consumer Price Index over the December 2019 index and that such rate increase shall be posted on the city's website as soon as it is known.

(3) Water supplied by the municipal water system and equipped with meters reading cubic feet will be charged to each customer based upon the following monthly rates:

Base rate	Includes first 267 cubic feet
Additional usage	Each additional cubic foot

Effective date	Base rate	Additional use
July 1, 2019	\$ 14.54	\$ .0365
July 1, 2020	\$ 15.91	\$ .03987

Beginning July 1, 2021, the water rates shall be adjusted each year for bills issued at the end of July based on the percentage increase in the December Consumer Price Index over the December 2019 index and that such rate increase shall be posted on the city's website as soon as it is known.

(4) Buildings equipped with a sprinkler system or stand pipe shall pay a demand fee of five dollars (\$5.00) per month plus the estimated usage, when

activated, at the rates established in this chapter. (1981 Code, § 13-110, modified, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-111. Sewer rates.** (1) All customers shall be billed a base rate plus usage in excess of the base rate each month. Partial month service is not prorated.

(2) Customers connected to the Millington Wastewater Treatment Plant, who are provided and billed for water by the City of Millington in gallons, shall be charged based on the following monthly rates:

Base rate	First 2,000 gallons
Additional usage	Each additional 1,000 gallons or part thereof

Effective date	Base rate	Additional use
July 1, 2018	\$7.74	\$3.73
July 1, 2019	\$8.06	\$3.89
July 1, 2020	\$8.38	\$4.04

Beginning July 1, 2021, the sewer rates shall be adjusted each year for bills issued at the end of July based on the percentage increase in the December Consumer Price Index over the December 2019 index and that such rate increase shall be posted on the city's website as soon as it is known.

(3) Customers connected to the Millington Wastewater Treatment Plant, who are provided and billed for water by the City of Millington in cubic feet (CF), shall be charged based on the following monthly rates:

Base rate	First 267 cubic feet
Additional usage	Each additional cubic foot

Effective date	Base rate	Additional use
July 1, 2019	\$ 8.05	\$ .0291
July 1, 2020	\$ 8.37	\$ .0303

Beginning July 1, 2021, the sewer rates shall be adjusted each year for bills issued at the end of July based on the percentage increase in the December Consumer Price Index over the December 2019 index and that such rate increase shall be posted on the city's website as soon as it is known.

(4) Customers connected to the Millington Wastewater Treatment Plant, who are provided and billed for water by MLGW in hundred cubic feet (CCF), shall be charged based on the following monthly rates:

Base rate	First 3 CCF
Additional usage	Each additional CCF

Effective date	Base rate	Additional use
July 1, 2018	\$8.69	\$2.7900
July 1, 2019	\$9.05	\$2.9100
July 1, 2020	\$9.41	\$3.0300

Beginning July 1, 2021, the sewer rates shall be adjusted each year for bills issued at the end of July based on the percentage increase in the December Consumer Price Index over the December 2019 index and that such rate increase shall be posted on the city's website as soon as it is known.

(5) A flat monthly fee shall be charged for areas served by the City of Millington collection systems and treated by the City of Memphis as follows:

Effective date	Fee
July 1, 2018	\$12.50
July 1, 2019	\$15.00

Customers in this category, whose wastewater is treated by the City of Memphis, shall pay the rate established by the City of Memphis for treatment in addition to the fee for the collection system.

(6) Users metered by a separate wastewater meter in gallons shall have a fixed monthly sewer fee for each one thousand (1,000) gallons, or any part thereof, of metered wastewater as follows:

Effective date	Rate
July 1, 2018	\$3.73
July 1, 2019	\$3.89
July 1, 2020	\$4.04

(7) All property within the city limits with a sewer main available shall be billed for sewer service based on dates contained in § 18-102, regardless of whether connected. (1981 Code, § 13-111, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-112.--18-113. Reserved for future use.** (1981 Code, § 13-112 and 1981 Code, § 13-113, as replaced by Ord. #2011-10, Dec. 2011, and Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-114. Billing.** Water, sewer, storm-water and sanitation (title 17) services, which are billed and collected as a common bill, will be billed monthly. Billing and due dates may vary from month to month. Bills shall state the bill date, the due date, the last day to pay (past due after this date) and cut-off date. Water service may be discontinued for non-payment of the combined water, sewer, sanitation and storm-water bill. The billing dates shall be based on:

- (1) Payment shall be due not later than the 14th day of each month.
- (2) Late payment service charge is applied next morning.
- (3) A minimum of eight (8) additional days after due date shall be allowed until account is past due.
- (4) Delinquent account service charge is applied next morning and service disconnect occurs.
- (5) In the event that any date is not on a business day, the date is extended to the next business day.

Water and sewer billing will be based on the amount flowing through the water meter from the last monthly meter reading to the current month meter reading. If the employees of the Millington Water Department are unable to obtain access to the water meter to read same during regular business hours, or if a meter should for any reason fail to register or fail to correctly register the consumption, the Millington Water Department reserves the right to render a bill to the customer on the best information available. (1981 Code, § 13-114, as replaced by Ord. #2001-08, June 2001, Ord. #2006-2, June 2006, Ord. #2001-11, Oct. 2007, Ord. #2008-9, Oct. 2008, Ord. #2009-16, July 2009, Ord. #2010-06, April 2010, Ord. #2016-12, June 2012, Ord. #2017-11, June 2017, Ord. #2019-16, June 2019 *Ch16\_6-29-20*, Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*, and Ord. #2022-5, April 2022 *Ch17\_01-09-23*)

**18-115. Application of customer payments.** Customer payments shall be allocated pro rata to the amounts due by service and shall be posted to the account in this manner:

- (1) Payments over the counter in city hall will be posted immediately.
- (2) Automated bank drafts (ACH) authorized in city hall by customers and processed directly by the city will be posted on the date sent to the bank.
- (3) Payments received in the mail will be posted on the day received.
- (4) Payments made through the city's online and phone payment sites will be posted immediately.
- (5) Payments left in the payment box in the city hall parking lot after 8:00 A.M. each day shall be posted as of next working day.

Payments made on days when late payment penalties or service charges are applied may be considered made after the fees are applied. (1981 Code, § 13-115, as replaced by Ord. #2001-16, Dec. 2001, Ord. #2019-16, June 2019 *Ch16\_6-29-20*, Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*, Ord. #2020-1, March 2020 *Ch16\_6-29-20*, and Ord. #2022-5, April 2022 *Ch17\_01-09-23*)

**18-116. Late payment service charge.** A ten percent (10%) late payment service charge shall be applied to the entire unpaid amount of any common city services bill not paid in full by due date, which is currently printed on the bill as the "pay gross after" date. (1981 Code, § 13-116, as replaced by Ord. #2016-20, Dec. 2016, Ord. #2017-11, June 2017, Ord. #2019-16, June 2019 *Ch16\_6-29-20*, Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*, and Ord. #2020-1, March 2020 *Ch16\_6-29-20*)

**18-117. Delinquent account service charge.** A fifty dollar (\$50.00) delinquent account service charge shall be applied to any account for city services not paid in full by the close of business on the delinquent date, which is currently printed on the bill as the "last day to pay" date. Furthermore, any account that has been on the delinquent list three (3) or more times in the past twelve (12) month period shall have an additional service fee of fifty dollars

(\$50.00) applied to the balance. (as replaced by Ord. #2008-9, Oct. 2008, Ord. #2009-16, July 2009, Ord. #2010-06, April 2010, amended by Ord. #2011-04, June 2011, and Ord. #2011-10, Dec. 2011, and replaced by Ord. #2016-20, Dec. 2016, Ord. #2017-11, June 2017, Ord. #2019-16, June 2019 **Ch16\_6-29-20**, Ord. #2019-22, Nov. 2019 **Ch16\_6-29-20**, Ord. #2020-1, March 2020 **Ch16\_6-29-20**, and Ord. #2022-20, Jan. 2023 **Ch17\_01-09-23**)

**18-118. Bad check and returned item service charge.** For any returned item, including but not limited to check, bank draft, ACH transaction, credit card, or debit card transaction, a service charge shall be added to the customer's account. Service charge shall be thirty dollars (\$30.00) for returned amounts up to three thousand dollars (\$3,000.00) and one percent (1%) of amount returned for returned amounts over three thousand dollars (\$3,000.00). (1981 Code, § 13-118, as amended by Ord. #2011-10, Dec. 2011, and replaced by Ord. #2019-16, June 2019 **Ch16\_6-29-20**, Ord. #2019-22, Nov. 2019 **Ch16\_6-29-20**, and Ord. #2020-1, March 2020 **Ch16\_6-29-20**)

**18-119. Bill adjustments and extensions.** Circumstances may exist which require that judgment be exercised in the billing and collection process as well as in the decision to discontinue service for delinquent unpaid billing. A committee consisting of the city finance director, the city clerk and the city services billing supervisor is authorized and required to review and approve payment extensions, adjustments and account write-offs, including where an error has been made in billing or no method exists to collect amounts from previous customers. Specific considerations for the committee include:

(1) Customer may request a waiver of one (1) late fee after six (6) months of timely payments.

(2) Customers with a history of all payments being on or before the due date in the last six (6) months may arrange for a payment plan based on special situations. Such payment plan shall require the account be current at the end of three (3) months. Special situations shall be evaluated under the concept of the prudent man rule of common law. Customers who do not stay current on their payment plan shall have service immediately cut off and shall be subject to all collection efforts of the city.

(3) A customer in good standing may request a waiver of the fifty dollar (\$50.00) connection fee for a new residence in the event their current residence is made uninhabitable due to natural disasters, fire, etc. as reviewed and approved by the panel outlined in subsection (c) above.

(4) In the event a customer is rendered a bill in excess of his average bill, and said excess is due to a leak at the meter, damaged meter, or in any way the responsibility of the Millington Water Department, the bill is to be adjusted as so to make the amount due an average amount as ascertained by the previous six (6) months' billing, or, if this information is not available, by the best information available.



(5) Customer with a swimming pool may apply for a credit against sewer fees for the filling of the pool once in each calendar year. The credit shall be calculated based on the average usage for the previous six (6) months and validated by the size of the pool.

(6) Customers with a water bill exceeding the previous month by at least twenty percent (20%) and who can document the repair of broken plumbing resulting in leakage not going into the sewer system may apply for a credit on the sewer portion of the bill for one (1) leak in each calendar year. The credit shall be calculated based on the average usage for the previous six (6) months. (1981 Code, § 13-119, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-120. Disconnection for unpaid balances.** Any customer may request a hearing to avoid disconnection of service through the fifteenth (15th) day after the bill date by contacting customer service. In the event that a hearing is requested by a customer, it shall be conducted by one (1) or more members of the committee established in this title and held in city hall during normal business hours at the date and time established by the city. The customer shall be entitled to one (1) day notice of the scheduled time, unless agreeing to an earlier time. The committee will issue a ruling prior to the 21st day after the bill date. Customers with an outstanding balance on business on the past due date shall be delinquent and service shall be discontinued.

After such disconnection, all amounts due, including extra charges, shall be paid before service is restored. Service will only be restored on city business days. Service can be restored between 8:00 A.M. and 4:00 P.M. Monday through Thursday and until 3:00 P.M. on Friday. (1981 Code, § 13-120, as replaced by Ord. #2001-16, Dec. 2001, Ord. #2010-06, April 2010, Ord. #2011-10, Dec. 2011, Ord. #2019-16, June 2019 *Ch16\_6-29-20*, Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*, and Ord. #2020-1, March 2020 *Ch16\_6-29-20*)

**18-121. Reserved for future use.** (1981 Code, § 13-121, as amended by Ord. #2011-10, Dec. 2011, and replaced by Ord. #2019-16, June 2019 *Ch16\_6-29-20*, Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*, and Ord. #2020-1, March 2020 *Ch16\_6-29-20*)

**18-122. Customers billed by MLGW.** Notwithstanding any other provisions of title 18 of the Millington Municipal Code, customers of city sewers, sanitation and/or stormwater drainage (city services) that purchase water from Memphis Light, Gas and Water (MLGW), may be billed by MLGW for any city services received at that address and such bills shall be subject to all MLGW terms and practices rather than the terms contained in the Chapter. (1981 Code, § 13-122, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-123. Termination of service by customer.** Customers may request termination of city services by:

- (1) Making request through city services web portal.
- (2) Written notice to city hall.

Request needs to be received one (1) working day prior to requested cutoff. Requested cutoff must be on a city work day and will be worked sometime during that day. Time of disconnect may be requested but is not guaranteed. (1981 Code, § 13-123, as amended by Ord. #2011-10, Dec. 2011, and replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*, and Ord. #2020-21, Jan. 2021 *Ch17\_01-09-23*)

**18-124. Liability for cutoff failures.** The municipality's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

- (1) After receipt of at least ten (10) days' written notice to cut off a water service, the municipality has failed to cut off such service.
- (2) The municipality has attempted to cut off a service but such service has not been completely cut off.
- (3) The municipality has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the municipality's main. Except to the extent stated above, the municipality shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the municipality's cutoff. Also, the customer (and not the municipality) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1981 Code, § 13-124, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-125. Development charge.** Development charges shall apply to all subdivisions, land developments, new buildings, and redevelopments of land or buildings served by the City of Millington water and/or sewer plants and systems, or where the facility served requires modification to or enlargement of the existing plants and/or systems, and whether service is by existing or by new facilities to be constructed. Such charge shall be payable by the applicant, developer of the subdivision, or developer of industrial, commercial or residential site upon the execution of the subdivision contract, or the extension contract, or at the time of application for the connection, as appropriately determined by the city.

- (1) Water development charges shall be:
  - (a) For all connections made to the main water line or any lateral lines of the North Fork Creek water line, whether for residential, industrial, multi-dwelling or commercial use, the water development

charge shall be the greater of three thousand dollars (\$3,000.00) per acre or one thousand two hundred dollars (\$1,200.00) per connection.

(b) For all connections made to the main water line or any lateral lines other than those served by the North Fork Creek water line, the water development charge shall be two hundred dollars (\$200.00).

(c) For all connections made to the main water line or any lateral lines other than those served by the North Fork Creek water line, the water development charge shall be one thousand five hundred dollars (\$1,500.00) per connection or dwelling unit after June 30, 2021.

(2) Sewer development charges shall be:

(a) For all connections made to the main sewer line or any lateral lines of the North Fork Creek sewer outfall line, whether for residential, industrial, multi-dwelling or commercial use, the sewer development charge shall be the greater of three thousand dollars (\$3,000.00) per acre or one thousand two hundred dollars (\$1,200.00) per connection.

(b) For all connections made to the main sewer line or any lateral lines other than those served by the North Fork Creek sewer outfall line, whether for residential, industrial, multi-dwelling or commercial use, the sewer development charge shall be the greater of one thousand two hundred fifty dollars (\$1,250.00) per acre or five hundred dollars (\$500.00) per connection.

(c) For all connections made to the main sewer line or any lateral lines other than those served by the North Fork Creek sewer outfall line, whether for residential, industrial, multi-dwelling or commercial use, the sewer development charge shall be one thousand five hundred dollars (\$1,500.00) per connection or dwelling unit after June 30, 2021. (1981 Code, § 13-125, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*, and Ord. #2020-21, Jan. 2021 *Ch17\_01-09-23*)

**18-126. Connection charge.** Connection (tap) charges shall be charged in addition to any development charges.

(1) Water connection charges shall be:

(a) For all connections with service lines from main to the lot: five hundred dollars (\$500.00) plus the actual cost of the meter as determined by the water department.

(b) For all other connections: the greater of five hundred dollars (\$500.00) or actual cost plus the actual cost of the meter as determined by the water department.

(c) For each building sprinkler system: five hundred dollars (\$500.00).

(2) Sewer connection charges shall be:

(a) For any lot with service lines available, the sewer connection charge shall be five hundred dollars (\$500.00).

(b) For any lot without service lines available, the sewer connection charge shall be the greater of five hundred dollars (\$500.00) or the actual cost of connection as determined by the sewer department. (1981 Code, § 13-126, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-127. Meters.** All meters shall be installed, tested, repaired, and removed only by the City of Millington. No water shall be furnished to any user unless there shall have been installed a water meter. 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. (1981 Code, § 13-127, as amended by Ord. #2001-16, Dec. 2001, replaced by Ord. #2011-10, Dec. 2011, amended by Ord. #2017-11, June 2017 and replaced by Ord. #2019-16, June 2019 *Ch16\_6-29-20*, Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*, and Ord. #2020-1, March 2020 *Ch16\_6-29-20*)

**18-128. Meter tests.** (1) The City of Millington shall, at its own expense, make routine tests of water meters when it considers such tests to be desirable.

(2) In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

(3) The city will conduct a second meter reading at a customer's request without charge.

(4) The city will also make tests or inspections of its meters at the request of a customer. For each customer requested subsequent test or re-test conducted for an accurate meter a charge of twenty dollars (\$20.00) will be added to the customer's bill. If more than one (1) test is requested within six (6) billing cycles, said charge shall be paid before the testing occurs. (1981 Code, § 13-128, as amended by Ord. #2011-10, Dec. 2011, and replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-129. Multiple services through a single meter.** No customer shall supply water or sewer service to more than one (1) dwelling or premise from a single service line and meter without first obtaining the written permission of

the municipality. Where this approval is granted, all fees and charges in this title will be based on total number of units being served. Each building containing coin-operated laundry shall have a separate water meter for the laundry equipment and any related restrooms. (1981 Code, § 13-129, as replaced by Ord. #2001-16, Dec. 2001, Ord. #2016-20, Dec. 2016, Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*, and Ord. #2020-21, Jan. 2021 *Ch17\_01-09-23*)

**18-130. Discontinuance or refusal of service.** The municipality shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) The rules and regulations in this code.
- (2) The customer's application for service.
- (3) The customer's contract for service.
- (4) In the event of the death of the account holder of record, unless there is a second account holder already on record with the city as guarantor of the account, the city shall mail notice to the premise served stating that if another party has not made arrangements with the city to become the new account holder of record for the premise within five (5) days of the date of the notice, service shall be terminated.

(5) Non-residential service shall be disconnected at the date the city determines the entity has ceased to operate at the address of city. Prior to disconnection of non-residential service, the city shall mail notice to the premise served stating city's intent to disconnect service and giving the customer five (5) days from the date of the notice to request a hearing. 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 (1) such customer or tenant.

Discontinuance of service for any cause 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. (1981 Code, § 13-130, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-131. Access to customers' premises.** The city's identified representatives and employees shall be granted access to all customers' premise at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the municipality, and for inspecting customers' plumbing and premise generally in order to secure compliance with these rules and regulations. (1981 Code, § 13-131, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-132.–18-133. Reserved for future** (1981 Code, § 13-132 and 1981 Code, § 13-133, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-134. Inspections.** The municipality shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The municipality reserves the right to refuse service or to discontinue service to any premise not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the municipality. Any failure to inspect or reject a customer's installation or plumbing system shall not render the municipality liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (1981 Code, § 13-134, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-135. Customer's responsibility for system's property.** Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the municipality shall be and remain the property of the municipality. Each customer shall provide space for and exercise proper care to protect the property of the city on his premise. 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. (1981 Code, § 13-135, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-136. Customer's responsibility for violations.** Where the municipality furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premise so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1981 Code, § 13-136, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-137. Supply and resale of water.** All water shall be supplied within the municipality exclusively by the municipality or as approved by the city by Memphis Light, Gas and Water Division (MLGW), and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the municipality. (1981 Code, § 13-137, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-138. Unauthorized use of or interference with water supply.** No person shall turn on or turn off any of the municipality's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the municipality.

Homeowner, tenant and/or contractor may only turn on and off curb stop/cut-off (valve) in order to make plumbing repairs. Any damage to curb stop, meter and/or meter box is the responsibility of the customer and/or property

owner. (1981 Code, § 13-138, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-139. 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 municipality. All private fire hydrants shall be sealed by the municipality, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the municipality a written notice of such occurrence. (1981 Code, § 13-139, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-140. Damages to property due to water pressure.** The municipality shall not be liable to any customer for damage caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the municipality's water mains. (1981 Code, § 13-140, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-141. Interruption of service.** The municipality will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The municipality shall not be liable for any damages for any interruption of service whatsoever. In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The municipality shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1981 Code, § 13-141, as replaced by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-142. Water and sewer main extensions.** Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions. For water main extensions cement-lined ductile iron pipe, class 50 American Waterworks Association Standard (or other construction approved by the board of mayor and aldermen), not less than eight inches (8") in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than five hundred feet (500') from the most distant part of any dwelling structure and no farther than five hundred feet (500') from the most distant part of any commercial, industrial, or public building, (or as the authority having jurisdiction may prescribe based on recommended practices and standards) such measurements to be based on road or street distances; cement-lined ductile

iron pipe (or other construction approved by the board of mayor and aldermen) two inches (2") in diameter, to supply dwellings only, may be used to supplement such lines. For sewer main extensions eight inch (8") pipe of SDR26 PVC or other construction approved by the city council shall be used. All such extensions shall be installed either by city forces or by other forces working directly under the supervision of the city in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the city, such water and/or sewer mains, excluding those located on private property without an easement, shall become the property of the City of Millington. The ownership and required maintenance and upkeep of all mains and service lines shall remain with a commercial development, which requests installation of a water main and/or services lines on its property where meters are located anywhere other than at the property line. In the latter case the city will only own and be responsible for the meter and meter box.

The persons paying the cost of constructing such mains shall execute any written instruments requested by the city to provide evidence of the city's title to such mains. In consideration of such mains being transferred to it, the city shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of the mains. (as added by Ord. #2011-10, Dec. 2011, and replaced by Ord. #2019-22, Nov. 2019 ***Ch16\_6-29-20***)

**18-143. Water and sewer main extension variances.** Whenever the board of mayor and aldermen is of the opinion that it is to the best interest of the city and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the board of mayor and aldermen. The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the city to make such extensions or to furnish service to any person or persons. (as added by Ord. #2011-10, Dec. 2011, and replaced by Ord. #2019-22, Nov. 2019 ***Ch16\_6-29-20***)

**18-144. Service lines.** Residential service lines will be laid by the city from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the city. When a residential service line is completed, the city shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the city. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer.



Commercial service lines may be:

(1) Laid by the city from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the city. When a service line is completed, the city shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the city. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer.

(2) Laid by the city from its mains to the location requested by the developer upon approval by the city at the expense of the applicant for service. When a service line is completed, the city shall only be responsible for the maintenance and upkeep of such service line from the main to the property line as well as the meter and meter box. The remaining portion of the service line beyond the property line shall belong to and be the responsibility of the customer. (as added by Ord. #2016-20, Dec. 2016, and replaced by Ord. #2019-22, Nov. 2019 ***Ch16\_6-29-20***)

**18-145. Fund accounting.** (1) All funds received by the City of Millington related to operation of the water treatment and distribution system shall be accounted for in the water fund. Said funds shall be used solely to pay for design, construction, operation and maintenance expenses of water distribution and water treatment plants and to fund debt service on all related present or future debt issues.

(2) All funds received by the City of Millington related to the operation of a sanitary sewer collection system and treatment facility shall be accounted for in the sewer fund. Said funds shall be used solely to pay for design, construction, operation and maintenance expenses of sanitary sewers and sewage treatment plants and to fund debt service on all related present or future debt issues. (as added by Ord. #2019-22, Nov. 2019 ***Ch16\_6-29-20***)

**18-146. Restricted use of water.** In times of emergencies or in times of water shortage, the municipality reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (as added by Ord. #2019-22, Nov. 2019 ***Ch16\_6-29-20***)

**18-147. Drought management fees and fines.** Whenever the use restriction levels in the drought management plan for the City of Millington water system is invoked, the following fees and fines, as defined in the plan, shall become effective:

(1) Mandatory water restrictions implemented:

(a) A twenty five dollar (\$25.00) surcharge will be assessed to all residential customers and small businesses whose water usage was over three thousand three hundred (3,300) gallons during the billing cycle.

(b) The following will be used to enforce violations of restrictions:

- (i) First offense - a written warning will be issued;
- (ii) Second offense - a minimum one hundred dollar (\$100.00) fine;
- (iii) Third offense - customer's water service will be discontinued for a minimum of five (5) days. A reconnection service fee will be required to have service restored.

(2) Emergency water management restrictions implemented:

(a) A fifty dollar (\$50.00) surcharge will be assessed to all residential customers and small businesses whose water usage was over three thousand (3,000) gallons during the billing cycle.

(b) The following will be used to enforce violations of restrictions:

- (i) First offense - a minimum five hundred dollar (\$500.00) fine.
- (ii) Second offense - customer's water service will be discontinued for a minimum of fifteen (15) days. A reconnection service fee will be required to have service restored. (as added by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

**18-148. Penalties.** Any person, firm, partnership, association or corporation using the city sewer system or any part thereof in violation of this chapter shall be guilty of a misdemeanor, punishable in accordance with the general penalty clause of this code and where such violation is of a continuing nature, each day's violation shall be deemed a separate offense. (as added by Ord. #2019-22, Nov. 2019 *Ch16\_6-29-20*)

## CHAPTER 2

### SEWER USE ORDINANCE<sup>1</sup>

#### SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Connection to public sewers.
- 18-204. Private domestic wastewater disposal.
- 18-205. Regulation of holding tank waste disposal.
- 18-206. Applications for domestic wastewater discharge and industrial wastewater discharge permits.
- 18-207. Discharge regulations.
- 18-208. Industrial user monitoring, inspection reports, records access, and safety.
- 18-209. Enforcement and abatement.
- 18-210. Penalty: costs.
- 18-211. Fees and billings.

**18-201. Purpose and policy.** This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the City of Millington, Tennessee, wastewater treatment system. The objectives of this chapter are:

- (1) To protect the public health;
- (2) To provide problem free wastewater collection and treatment service;
- (3) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, will cause the city's discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements will cause physical damage to the wastewater treatment system facilities;
- (4) To provide for full and equitable distribution of the cost of the wastewater treatment system;
- (5) To enable the City of Millington to comply with the provisions of the Federal Clean Water Act, the General Pretreatment Regulations (40 CFR Part 403), and other applicable federal and state laws and regulations;
- (6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Millington must have adequate wastewater treatment

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<sup>1</sup>Municipal code reference  
Plumbing code: title 12.

either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system. The chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the City of Millington, Tennessee, and to persons outside the city who are, by contract or agreement with the city users of the municipal wastewater treatment system. Except as otherwise provided herein, the Water and Sewer Superintendent of the City of Millington shall administer, implement, and enforce the provisions of this chapter. (1981 Code, § 13-201)

**18-202. Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act" or "the Act" - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et. seq.*

(2) "Approval Authority" - The director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.

(3) "Authorized representative of industrial user" - An authorized representative of an industrial user may be:

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(c) A duly authorized representative who is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical Oxygen Demand (BOD)" - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 degrees centigrade expressed in terms of weight and concentration [milligrams per liter (mg/l)].

(5) "Building Sewer" - A sewer conveying wastewater from the premises of a user to the POTW.

(6) "Categorical standards" - National categorical pretreatment standards or pretreatment standard.

(7) "City" - The City of Millington or the board of mayor and aldermen, City of Millington, Tennessee.

(8) "Compatible pollutant" - shall mean BOD, suspended solids, pH, and fecal coliform bacteria, and such additional pollutants as are now or may be in the future specified and controlled in the city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(9) "Cooling water" - The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(10) "Control authority" - The term "control authority" shall refer to the "approval authority," defined hereinabove; or the superintendent if the city has an approved pretreatment program under the provisions of 40 CFR, 403.11.

(11) "Customer" - means any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(12) "Direct discharge" - The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(13) "Domestic wastewater" - Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent containing sanitary facilities for the disposal of wastewater and used for residential purposes only.

(14) "Environmental Protection Agency, or EPA" - The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(15) "Garbage" - shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(16) "Grab sample" - A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(17) "Holding tank waste" - Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(18) "Incompatible pollutant" - shall mean any pollutant which is not a "compatible pollutant" as defined in this section.

(19) "Indirect discharge" - The discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(20) "Industrial user" - A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Act (33 U.S.C. 1342).

(21) "Interference" - The inhibition or disruption of the municipal wastewater treatment processes or operations which contributes to a violation

of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

(22) "National categorical pretreatment standard or pretreatment standard" - Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of Industrial Users.

(23) "NPDES (Natural Pollutant Discharge Elimination System)" shall mean the program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to Section 402 of the Federal Water Pollution Control Act as amended.

(24) "New source" - Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307 (c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal a new source, the construction of which is commenced after the date of promulgation of the standard.

(25) "Person" - Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(26) "pH" - The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(27) "Pollution" - The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(28) "Pollutant" - Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical substances, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(29) "Pretreatment or treatment" - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alternation can be obtained by physical, chemical, or biological processes, or process changes other means, except as prohibited by 40 CFR Section 40.36(d).

(30) "Pretreatment requirements" - Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

(31) "Publicly Owned Treatment Works (POTW)" - A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the (city) who are, by contract or agreement with the (city) users of the (city's) POTW.

(32) "POTW treatment plant" - That portion of the POTW designed to provide treatment to wastewater.

(33) "Shall" is mandatory; "May" is permissive.

(34) "Slug" - shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

(35) "State" - State of Tennessee.

(36) "Standard Industrial Classification (SIC)" - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(37) "Storm water" - Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(38) "Storm sewer" or "storm drain" - shall mean a pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes; it may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(39) "Suspended solids" - The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(40) "Superintendent" - The person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

(41) "Toxic pollutant" - Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA (307 (a)) or other Acts.

(42) "Twenty-four (24) hour flow proportional composite sample". A sample consisting of several sample portions collected during a 24-hour period

in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(43) "User" - Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(44) "Wastewater" - The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated which is contributed into or permitted to enter the POTW.

(45) "Wastewater treatment systems" - Defined the same as POTW.

(46) "Waters of the State" - All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface of underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof. (1978 Code, § 13-201)

**18-203. Connection to public sewers.** (1) Requirements for proper wastewater disposal. (a) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the service area of the City of Millington, any human or animal excrement, garbage or other objectionable wastes.

(b) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) Except as provided in § 18-203(1)(e) below, the owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the service area and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer in the service area, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this section, within sixty (60) days after the date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the building drain as defined herein.

(e) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit and any other applicable local, state or federal statutes and regulations.



(f) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d), the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-204.

(2) Physical connection public sewer. (a) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent as required by § 18-206.

(b) All costs and expenses incident to the installation, connection and inspection of the new building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(d) Old building sewers may be used in connection with new building only when they are found, on examination and testing by the superintendent, to meet all requirements of this chapter. All others must be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be four (4) inches.

(ii) The minimum depth of a building sewer shall be eighteen (18) inches.

(iii) Four (4) inch building sewers shall be laid on a grade greater than 1/8-inch per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

(iv) Slope and alignment of all building sewers shall be neat and regular.

(v) Building sewers shall be constructed only of:

(A) Concrete or clay sewer pipe using rubber or neoprene compression joints of approved type;

(B) Cast iron soil pipe or ductile iron pipe with compression joints; or

(C) Polyvinyl chloride pipe with solvent welded or with rubber compression joints;

(D) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or

(E) Such other materials of equal or superior quality as may be approved by the superintendent. Under no circumstances will cement mortar joints be acceptable.

(vi) A cleanout shall be located five (5) feet outside of the building, one at the tap onto the utility lateral and one at each change of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed no more than seventy-five (75) feet apart in horizontal building sewers of four (4) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches on a four (4) inch pipe.

(vii) Connections of building sewers to the public sewer system shall be made at the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or cutting a clean opening in the existing public sewer and installing a tee-saddle or tee-insert of a type approved by the superintendent. All such connections shall be made gastight and watertight.

(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8-inch per foot or more, if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection of the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No.

9. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, area drains, basement drains or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn is connected directly or indirectly to a public sanitary sewer.

(3) Inspection of connections. (a) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected by the superintendent or his authorized representative before the underground portion is covered.

(b) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by the superintendent to meet specifications of the city. (1981 Code, § 13-202)

**18-204. Private domestic wastewater disposal.** (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to 1/8-inch per foot in the building sewer but is otherwise accessible to a public sewer as provided in § 18-203, the owner shall provide a private sewage pumping station as provided in § 18-203(2)(e)(viii).

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice to do so.

(2) Requirements. (a) A private domestic wastewater disposal system may not be constructed within the service area unless and until a

certificate is obtained from the 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 subsurface soil absorption facilities where the area of the lot is less than that specified by the Memphis and Shelby County Health Department.

(b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the Memphis and Shelby County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the Memphis and Shelby County Health Department.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the Memphis and Shelby 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 Memphis and Shelby 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 Memphis and Shelby County Health Department.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health of the State of Tennessee and the Memphis and Shelby County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(f) No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the Memphis and Shelby County Health Department. (1981 Code, § 13-203)

**18-205. Regulation of holding tank waste disposal.** (1) Permit. No person, firm, association or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater of excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the superintendent to perform such acts or services. Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter, an annual service charge therefore shall be paid to the city to be set as specified in § 18-211. Any such permit granted shall be for one full fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated.

(4) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of Millington. (1981 Code, § 13-204)

**18-206. Applications for domestic wastewater discharge and industrial wastewater discharge permits.** (1) Applications for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the superintendent for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the municipal sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-203 of this chapter and an inspection has been performed by the superintendent or his representative.

The receipt by the city of a prospective customer's application for service shall not obligate the city to render the service. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service, except that conditional waivers for additional services may be granted by the superintendent for interim periods if compliance may be assured within a reasonable period of time.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to

contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall obtain a wastewater discharge permit 180 days after the effective date of this chapter.

(b) Applications. (i) Users required to obtain a wastewater discharge permit shall complete and file with the superintendent an application in the form prescribed by the superintendent, and accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within 60 days after the effective date of this chapter, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address and SIC number of applicant; wastewater volume; wastewater constituents and characteristics; discharge variations - daily, monthly, seasonal and 30 minute peaks; a description of all toxic materials handled on the premises; site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the superintendent.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall, as part of the application for wastewater discharge permit, submit plans, specifications and other pertinent information relative to the proposed construction to the superintendent for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by § 18-207.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The superintendent will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the superintendent that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the superintendent, the superintendent shall submit the application to the mayor with a recommendation that it be denied and notify the applicant in writing of such action.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

(i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(ii) Limits on the average and maximum wastewater constituents and characteristics;

(iii) Limits on average and maximum rate and time of discharge or requirements and equalization;

(iv) Requirements for installation and maintenance of inspections and sampling facilities;

(v) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;

(vi) Compliance schedules;

(vii) Requirements for submission of technical reports of discharge monitoring reports;

(viii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(ix) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change

in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(x) Requirements for notification of slug discharged;

(xi) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by §§ 18-206(2)(b)(ii) and 18-206(2)(b)(iii). The terms and conditions of the permit may be subject to modification by the superintendent during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.



(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaire, permit application, permits and monitoring programs and from inspections shall be available to the public or any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the superintendent that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use related to this chapter or the city's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the superintendent as confidential shall not be transmitted to any governmental agency or to the general public by the superintendent until and unless prior and adequate notification is given to the user. (1981 Code, § 13-205)

**18-207. Discharge regulations.** (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over twenty percent (20%) of the Lower Explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch ( $\frac{1}{2}$ " ) in any dimension, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(c) Any wastewater having a pH less than 5.0 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(d) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(g) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.

(h) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference,

but in no case wastewater with a temperature at the introduction into the POTW which exceed 40°C (104°F).

(j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

(k) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "sludge" as defined herein.

(l) Any wastewater containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(m) Any wastewater which causes a hazard to human life or creates a public nuisance.

(n) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at a temperature between thirty-two (32) or one hundred fifty (150) degrees F (0 and 65°C).

(o) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Health. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Health, to a storm sewer or natural outlet.

(2) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the following set of standards (Table A - User Discharge Restrictions) unless an exception is permitted as provided in this chapter. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A - User Discharge Restrictions

Pollutant	Daily Average* Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l)
Antimony	5.0	8.0
Arsenic	1.0	1.5
Cadmium	1.0	1.5
Chromium (total)	4.0	7.0
Copper	3.0	5.0
Cyanide	1.0	2.0
Lead	1.0	1.5
Mercury	0.1	0.2
Nickel	3.0	4.5
Pesticides & Herbicides	0.5	1.0
Phenols	10.0	15.0
Selenium	1.0	1.5
Silver	1.0	1.5
Surfactants, as MBAS	25.0	50.0
Zinc	3.0	5.0

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\*Based on 24-hour flow proportional composite samples.

(3) Protection of treatment plant influent. The superintendent shall monitor treatment works influent for each parameter in the following table. (Table B - Plant Protection Criteria). Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the POTW reaches or exceeds the levels established by this table, the superintendent shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The superintendent shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

Table B - Plant Protection Criteria

Parameter	Maximum Concentration mg/l (24 Hour Flow) Proportional (Composite Sample)	Maximum Instantaneous Concentration (mg/l) (Grab Sample)
Aluminum dissolved (Al)	3.00	6.0
Antimony (Sb)	0.50	1.0
Arsenic (As)	0.06	0.12
Barium (Ba)	2.50	5.0
Boron (B)	0.4	0.8
Cadmium (Cd)	0.004	0.008
Chromium Hex	0.06	0.12
Cobalt (Co)	0.03	0.06
Copper (Cu)	0.16	0.32
Cyanide (CN)	0.03	0.06
Fluoride (F)	0.6	1.2
Iron (Fe)	3.0	6.0
Lead (Pb)	0.10	0.2
Manganese (Municipality)	0.1	0.2
Mercury (Hg)	0.025	0.05
Nickel (Ni)	0.15	0.30
Pesticides & Herbicides	0.001	0.002
Phenols	1.00	2.0
Selenium (Se)	0.01	0.02
Silver (Ag)	0.05	0.1
Sulfide	25.0	40.0

Parameter	Maximum Concentration mg/l (24 Hour Flow) Proportional (Composite Sample)	Maximum Instantaneous Concentration (mg/l) (Grab Sample)
Zinc (Zn)	0.3	0.6
Total Kjeldahl Nitrogen (TKN)	45.00	90.00
Oil & Grease	50.00	100.00
MBAS	5.00	10.0
BOD	*	
COD	*	
Suspended Solids	*	

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\*Not to exceed the design capacity of treatment works.

BDL = Below Detectable Limits.

(4) Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under the chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

(5) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the superintendent from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Health and/or the United States Environmental Protection Agency.

(6) Special use permit. (a) Any business and/or industry subject to the restrictions set forth in § 18-207 (1) General discharge provisions, and/or (2) Restrictions on wastewater strength, may obtain a special permit to discharge wastewater into the sanitary sewer system provided

special requirements, as determined by the water and wastewater manager and stated in the permit, are met. All such special permits shall be issued based upon individual inspections and circumstances on an annual basis, and be renewable annually by the water and wastewater manager subject to the following:

(i) Any business and/or industry that applies for a special permit to discharge waste water shall make any and/or all changes as determined necessary and required by the water and wastewater manager before a permit will be issued.

(ii) All improvements required for the special permit will be installed and maintained at the expense of the owner of the business and/or industry possessing the permit.

(iii) Proof of required improvements must be supplied to the water and wastewater manager prior to the issuance of the permit and are subject to periodic inspection at any time during the term of the permit.

(b) If at the time of any inspection, periodic or annual, the business and/or industry fails to meet any provision, term, improvement, or requirement of the special permit, the permit shall be immediately discontinued until such time as the violation is corrected.

(c) Special provisions and/or requirements of special use permits may consist of, but not be limited to, the following:

(i) Independent laboratory analysis performed annually or at the request of the water and wastewater manager on any waste water to be discharged. Such analysis is to be performed by a certified laboratory and shall meet the requirements set forth in "Table A." Cost of laboratory analysis shall be borne by the owner of the business or industry.

(ii) An oil water separator on the wastewater line before the point of discharge. The separator shall be located where there can be easy access for cleaning and inspection. Cost of cleaning, installing and maintaining these separators shall be borne by the owner of the business or industry.

(iii) Sand and gravel catch basins located so as to permit cleaning and inspection. The cost of installation, cleaning and maintaining these basins will be borne by the owner of the business or industry.

(7) Exceptions to discharge criteria. (a) Application for exception.

Non-residential users of the POTW may apply for a temporary exception to the prohibited and restricted wastewater discharge criteria listed in §§ 18-207(1) and 18-207(2). Exceptions can be granted according to the following guidelines.

The superintendent shall allow applications for temporary exceptions at any time. However, the superintendent shall not accept an application if the applicant has submitted the same or substantially

similar application within the preceding year and the same has been denied by the city.

All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered by the city in its review of the application.

(b) Conditions. All exceptions granted under this paragraph shall be temporary and subject to revocation at any time by the superintendent.

The user requesting the exception must demonstrate to the superintendent that he is making a concentrated and serious effort to maintain high standards of operation control and housekeeping levels, etc., so that discharges to the POTW are being minimized. If negligence is found, permits will be subject to termination. The user requesting the exception must demonstrate that compliance with stated concentration and quantity standards is technically or economically infeasible and the discharge, if excepted, will not:

- (i) Interfere with the normal collection and operation of the wastewater treatment system;
- (ii) Limit the sludge management alternatives available and increase the cost of providing adequate sludge management;
- (iii) Pass through the POTW in quantities and/or concentrations that would cause the POTW to violate its NPDES permit.

The user must show that the exception, if granted, will not cause the discharger to violate its in force federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment regulations.

A surcharge shall be applied to any exception granted under this subsection. These surcharges shall be applied for that concentration of the pollutant for which the variance has been granted in excess of the concentration stipulated in this chapter based on the average daily flow of the user.

(c) Review of application by the superintendent. All applications for an exception shall be reviewed by the superintendent. If the application does not contain sufficient information for complete evaluation, the superintendent shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the superintendent to correct such deficiencies. This thirty (30) day period may be extended by the city upon application and for just cause shown. Upon receipt of a complete application, the superintendent shall evaluate same within thirty (30) days and shall submit his recommendations to the city at its next regularly scheduled meeting.



(d) Review of application by the city. The city shall review and evaluate all applications for exceptions and shall take into account the following factors:

(i) Whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in Section VII and grant an exception only if such exception may be granted within limitations of applicable federal regulations;

(ii) Whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of Section 307(a) of the Act (33 U.S.C. 1317), and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations;

(iii) Whether or not the granting of an exception would create conditions that would reduce the effectiveness of the treatment works taking into consideration the concentration of said pollutant in the treatment works' influent and the design capability of the treatment works;

(iv) The cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive costs alone shall not be the basis for granting an exception;

(v) The age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge;

(vi) The process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge;

(vii) The engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge.

(8) Accidental discharges. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from inplant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of waste regulated by this chapter shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities and/or establishment of procedures which will

prevent or minimize the potential for such accidental discharge. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing the facilities and operating procedures shall be submitted to the superintendent before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge. Any person causing or suffering from any accidental discharge shall immediately notify the superintendent (or his designated official) by telephone to enable countermeasures to be taken by the superintendent to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification will not relieve the user of liability for any expense, loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (1981 Code, § 13-206)

**18-208. Industrial user monitoring, inspection reports, records access, and safety.** (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users having wastes which receive pretreatment, are otherwise altered or regulated before discharge, or are unusually strong and thereby subject to a surcharge. Monitoring facility shall be a manhole or other suitable facility approved by the superintendent.

When, in the judgment of the superintendent, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the superintendent may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user.

If sampling or metering equipment is also required by the superintendent, it shall be provided and installed at the users's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The superintendent may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the superintendent's requirements and all applicable local agency construction standards and specifications. When, in the judgment of the superintendent, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within 180 days following written notification unless an extension is granted by the superintendent.

(2) Inspection and sampling. The city shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility. The superintendent or his representatives shall have no authority to inquire into any manufacturing process beyond that point having a direct bearing on the level and sources of discharge to the sewers, waterways, or facilities for waste treatment.

(3) Compliance date report. Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum

daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(4) Periodic compliance reports. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent during the months of June and December unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted.

(b) The superintendent may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(c) The reports required by this section shall contain the results of sampling analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment standards. All analysis shall be performed in accordance with procedures established by the administrator pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the superintendent. Sampling shall be performed in accordance with the techniques approved by the superintendent.

(5) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

(a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;

(b) The dates analysis were performed;

- (c) Who performed the analysis;
- (d) The analytical techniques/methods used; and
- (e) The results of such analysis.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the superintendent, Director of the Division of Water Pollution Control, Tennessee Department of Health, or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the superintendent, the approval authority, or the Environmental Protection Agency.

(6) Safety. While performing the necessary work on private properties, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions. (1981 Code, § 13-207)

**18-209. Enforcement and abatement.** (1) Issuance of cease and desist orders. When the superintendent finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the superintendent shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:

- (a) Comply forthwith;
- (b) Comply in accordance with a time schedule set forth by the superintendent;
- (c) Take appropriate remedial or preventive action in the event of a threatened violation; or
- (d) Surrender his applicable user's permit if ordered to do so after a show cause hearing.

Failure of the superintendent to issue a cease and desist order to a violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

(2) Submission of time schedule. When the superintendent finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations of pretreatment standards or the provisions of a wastewater discharge permit, the superintendent shall require the user to

submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the superintendent within thirty (30) days of the issuance of the cease and desist order.

(3) Show cause hearing. (a) The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the board of mayor and aldermen why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the board of mayor and aldermen regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the board of mayor and aldermen why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

(b) The board of mayor and aldermen may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the water and sewer department to:

(i) Issue in the name of the board of mayor and aldermen notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(ii) Take the evidence;

(iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board for action thereon.

(c) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(d) After the board of mayor and aldermen has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(4) Legal action. If any person discharges sewage, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city, the city's attorney may commence an action for appropriate legal and/or equitable relief in the chancery court of this county.

(5) Emergency termination of service. In the event of an actual or threatened discharge to the POTW of any pollutant which in the opinion of the superintendent presents or may present an imminent and substantial endangerment to the health or welfare of persons, or cause interference with POTW, the superintendent or in his absence the person then in charge of the treatment works shall immediately notify the mayor of the nature of the emergency. The superintendent shall also attempt to notify the industrial user or other person causing the emergency and request their assistance in abating same. Following consultation with the aforementioned officials of the city or in their absence such elected officials of the city as may be available, the superintendent shall temporarily terminate the service of such user or users as are necessary to abate the condition when such action appears reasonably necessary. Such service shall be restored by the superintendent as soon as the emergency situation has been abated or corrected.

(6) Public nuisance. Discharges of wastewater in any manner in violation of this chapter or of any order issued by the superintendent as authorized by this chapter, is hereby declared a public nuisance and shall be corrected or abated as directed by the superintendent. Any person creating a public nuisance shall be subject to the provisions of the city codes of ordinances governing such nuisances.

(7) Correction of violation and collection of costs. In order to enforce the provisions of this chapter, the superintendent shall correct any violation thereof. The cost of such correction shall be added to any sewer service charge payable by the person violating the chapter or the owner or tenant of the property upon which the violation occurred, and the city shall have such remedies for the collection of such costs as it has for the collection of sewer service charges.

(8) Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to facilities, the superintendent shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge.

(9) Civil liabilities. Any person or user who intentionally or negligently violates any provision of this chapter, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard or performance, pretreatment, or toxicity standard, shall be liable civilly.

The City of Millington shall sue for such damage in any court of competent jurisdiction. In determining the damages, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the correcting action, if any. (1981 Code, § 13-208)

**18-210. Penalty: costs.** (1) Civil penalties. Any user who is found to have violated an order of the board of mayor and aldermen or who willfully or negligently failed to comply with any provision of this chapter, and the order, rules, regulations and permits issued hereunder, shall be fined not less than Fifty and 00/100 Dollars (\$50.00) for each offense. Each day of which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this ordinance or the orders, rules, regulations, and permits issued hereunder.

(2) Falsifying information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater discharge permit, 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 \$1,000 or by imprisonment for not more than six (6) months, or by both. (1981 Code, § 13-209)

**18-211. Fees and billing.** (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from user's of the city's wastewater treatment system, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the city's schedule of charges and fees, may include, but not be limited to:

- (a) Inspection fee and tapping fee;



(b)<sup>1</sup> Three hundred dollars (\$300) per truck up to eight hundred (800) gallons of discharge.

Four hundred dollars (\$400) per truck - eight hundred (800) gallons to twelve hundred (1200) gallons of discharge.

Five hundred dollars (\$500) per truck in excess of twelve hundred (1200) gallons of discharge.

No grease from commercial grease traps may be directly or indirectly discharged into the sewer plant.

(c) Sewer use charges;

(d) Surcharge charges;

(e) Industrial wastewater discharge permit fees;

(f) Fees for industrial discharge monitoring; and

(g) Other fees as the city may deem necessary to carry out the requirements of this ordinance.

(3) Fees for applications for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by subsection (5) of this section.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the Water and Sewer Department at the time the application is filed. Fees shall cover the costs of inspecting new and/or existing plumbing within subject building establishments as well as inspection of building sewers, property sewers, and sewer service lines and connections to the public sewers. The inspection fee and tapping fee shall be set by the board of mayor and aldermen.

(5) Sewer user charges. (a) Classification of users. Users of the wastewater system shall be classified into two (2) general classes or categories depending upon the users contribution of wastewater loads; each class user being identified as follows:

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<sup>1</sup>Ordinance #1986-11, section 1, provided that § 13-210(2)(b) (now § 18-211(2)(b)) be deleted and replaced with these provisions.

Sections 2 and 3 of that ordinance provided as follows:

**SECTION 2. BE IT FURTHER ORDAINED:**

That any person from a corporation violating the provisions of this Ordinance shall be liable for the civil penalties as set forth in Section 13-208 (4), (5), (6), (7), (8), and (9) (now §§ 18-209(4)-(9)).

**SECTION 3. BE IT FURTHER ORDAINED:**

That any violation of this Ordinance is hereby declared to be a misdemeanor and in addition to the civil penalties hereinabove set forth the violator shall be fined not less than Fifty Dollars (\$50) for each offense all as set forth in Section 13-209(1) (Now § 18-210(1)).

(i) Class I. Those users whose average biochemical oxygen demand is two hundred fifty milligrams per liter (250 mg/l) by weight or less, and whose suspended solids discharge is two hundred fifty milligrams per liter (250 mg/l) by weight or less.

(ii) Class II. Those users whose average biochemical oxygen demand exceeds two hundred fifty milligrams per liter concentration (250 mg/l) by weight and whose suspended solids exceeds two hundred fifty milligrams per liter concentration (250 mg/l).

(b) Determination of costs. The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for services supplied by the wastewater system. Said charges shall be based upon the cost categories of administration costs, including billing and accounting costs; operation and maintenance costs of the wastewater collection and treatment system; and debt service costs.

(i) All users who fall under Class I shall pay a single unit charge expressed as dollars per 1,000 gallons of water purchased (\$/1,000 gallons) with the unit charge being determined in accordance with the following formula:

$$C_i = \frac{T.S.C.}{V_t}$$

Where;

$C_i$  = the Class I total unit cost in \$/1,000 gallons

T.S.C. = the total operation and maintenance, administration, and debt service determined by yearly budget projections.

$V_t$  = the total volume of wastewater contribution from all users per year as determined from projections from one city fiscal year to the next.

(ii) All users who fall within the Class II classification shall pay the same base unit charge per 1,000 gallons of water purchased as for the Class I users and in addition shall pay a surcharge rate on the excessive amounts of biochemical oxygen demand and suspended solids in direct proportion to the actual discharge quantities.

(iii) The volume of water purchased which is used in the calculation of sewer use charges may be adjusted by the superintendent if a user purchases a significant volume of water for a consumptive use and does not discharge it to the public sewers (i.e. filling swimming pools, industrial heating, and humidifying equipment, etc.). The user shall be responsible for documenting the quantity of waste discharged to the public sewer.

(iv) When either or both the total suspended solids or biochemical oxygen demand quantities discharged into the treatment works is in excess of those described in § 18-211(4)(a), above, thus being classified as Class II users, the following formula shall be used to compute the appropriate user charge:

$$C_u = V_c V_u + B_c B_u + S_c S_u$$

Where;

$C_u$  = Total user charge per unit of time.

$V_c$  = Total cost for transportation and treatment of a unit of wastewater volume.

$V_u$  = Volume contribution per unit of time.

$B_c$  = Total cost for treatment of a unit of biochemical oxygen demand (BOD).

$B_u$  = Total BOD contribution for a user per unit of time.

$S_c$  = Total cost of treatment of a unit of suspended solids.

$S_u$  = Total suspended solids contribution from a user per unit of time.

(6) Surcharge fees. If it is determined by the city that the discharge of other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system, whether collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the discharger of such parameters in proportion to the amount of discharge.

(7) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge permit in accordance with subsection 5 of this section.

(8) Fees for industrial discharge monitoring. Fees may be collected from the industrial users having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(9) Billing. The billing for normal domestic wastewater services shall consist of monthly billing in accordance with the rates specified by the city subject to net and gross rates.

(10) Penalties. The penalties established under § 18-127 of this code for late payment of water fees shall also apply to sewer service charges. (1981 Code, § 13-210, modified, as amended by Ord. #2001-16, Dec. 2001))

## CHAPTER 3

### SEWAGE AND HUMAN EXCRETA DISPOSAL<sup>1</sup>

#### SECTION

- 18-301. Definitions.
- 18-302. Places required to have sanitary disposal methods.
- 18-303. When a connection to the public sewer is required.
- 18-304. When a septic tank shall be used.
- 18-305. Registration and records of septic tank cleaners, etc.
- 18-306. Approval and permit required for septic tanks, privies, etc.
- 18-307. Owner to provide disposal facilities.
- 18-308. Occupant to maintain disposal facilities.
- 18-309. Only specified methods of disposal to be used.
- 18-310. Discharge into watercourses restricted.
- 18-311. Pollution of ground water prohibited.
- 18-312. Enforcement of chapter.
- 18-313. Carnivals, circuses, etc.
- 18-314. Violations.

**18-301. Definitions.** The following definitions shall apply in the interpretation of this chapter:

(1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred (200) feet of any boundary of said property measured along the shortest available right-of-way;

(2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent;

(3) "Human excreta." The bowel and kidney discharges of human beings;

(4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments;

(5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four (4) feet should be

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<sup>1</sup>Municipal code reference  
Plumbing code: title 12.

provided with a minimum depth of air space above the liquid of one (1) foot. The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five (5) feet. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data;

(6) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer;

(7) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1981 Code, § 8-301)

**18-302. Places required to have sanitary disposal methods.** Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1981 Code, § 8-302)

**18-303. When a connection to the public sewer is required.** Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1981 Code, § 8-303)

**18-304. When a septic tank shall be used.** Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1981 Code, § 8-304)

**18-305. Registration and records of septic tank cleaners, etc.** Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health

officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1981 Code, § 8-305)

**18-306. Approval and permit required for septic tanks, privies, etc.** Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1981 Code, § 8-307)

**18-307. Owner to provide disposal facilities.** It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-302, or the agent of the owner to provide such facilities. (1981 Code, § 8-308)

**18-308. Occupant to maintain disposal facilities.** It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1981 Code, § 8-309)

**18-309. Only specified methods of disposal to be used.** No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1981 Code, § 8-310)

**18-310. Discharge into watercourses restricted.** No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1981 Code, § 8-311)

**18-311. Pollution of ground water prohibited.** No sewage, effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1981 Code, § 8-312)

**18-312. Enforcement of chapter.** It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the

health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace, and failure to remove such menace immediately shall be punishable under the general penalty clause for this code; but such person shall be allowed the number of days herein provided within which to make permanent correction. (1981 Code, § 8-313)

**18-313. Carnivals, circuses, etc.** Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1981 Code, § 8-314)

**18-314. Violations.** Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1981 Code, § 8-315)



## CHAPTER 4

### CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

#### SECTION

- 18-401. Definitions.
- 18-402. Water department to comply with law, establish program.
- 18-403. Cross-connections, etc., unlawful except under certain conditions.
- 18-404. Certain persons required to file statement of nonexistence of cross-connections, etc.
- 18-405. Inspections.
- 18-406. Right of entry - obtaining information.
- 18-407. Existing cross-connections, etc. - reasonable time to remove.
- 18-408. Protective requirements for existing buildings.
- 18-409. Protective requirements for new construction.
- 18-410. Protective requirements for construction of fire lines and sprinkler systems.
- 18-411. General requirements for the installation of RP devices.
- 18-412. Protection from contamination - warning signs.
- 18-413. Penalties.

**18-401. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter.

(1) “Air gap” - the physical separation of the supply pipe and the container of possible contaminants; used in high hazard situations.

(2) “Antisiphon” - device or assembly which prevents the occurrence of back-siphonage.

(3) “Atmospheric vacuum breakers (AVB)” - device used to prevent back-siphonage of contaminants into the public water supply; provides minimum protection and is used on sinks and low risk areas.

(4) “Auxiliary intake” - any piping connection or other device whereby water may be secured from a source other than that normally used.

(5) “Back-pressure” - a higher pressure in the plumbing system than in the public water system causing the water, which is possibly contaminated to flow backwards through the supply line and into the public water system.

(6) “Back-siphonage” - the siphonage of a contaminated water supply being drawn back into the public water supply during periods of reduced pressure, such as by a broken line or fire hydrant being opened.

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<sup>1</sup>Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

(7) "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.

(8) "Cross-connection" - any physical connection whereby a potable water supply system 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 potable water supply is possible, either through the manipulation of valves or because of ineffective check or back pressure valves.

(9) "Discharge zone" - area of an RP device that contains the relief valve and discharges the contaminated water in cases of back-pressure and back-siphonage.

(10) "Double check assembly" - a device used to prevent the reverse flow of water (back-pressure).

(11) "Dry sprinkler system" - a sprinkler system that is not constantly under pressure and holding water in its lines.

(12) "Hazardous conditions" - any situation where the possibility of chemical, bacterial or bodily fluids may be introduced into the public water supply by means of back-pressure and back-siphonage.

(13) "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.

(14) "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 county.

(15) "Potable water supply" - any public or other water supply, the quality of which is approved by the Tennessee Department of Health and Environment for human consumption.

(16) "Public water supply" - the waterworks system furnishing water to the City of Millington for general use and which supply is recognized as the public water supply by the Tennessee Department of Health and Environment.

(17) "Pressure vacuum breakers (PVB)" - a spring-loaded device used for preventing back-siphonage of contaminants into the public water supply; provides minimum protection and should be used on low hazard areas.

(18) "Reduced pressure zone backflow preventer (RP, RP device)" - device used to provide maximum protection against back-pressure, back-siphonage, and hazardous conditions.

(19) "Wet sprinkler system" - a sprinkler system that is under constant pressure from the water supply line.

(20) "Wet standpipe" - a supply tank for some sprinkler systems that constantly contains water and increases pressure to the sprinkler system by means of gravity feed or a booster pump. (1981 Code, § 8-401, as amended by Ord. #2003-49, Feb. 2004)

**18-402. Water department to comply with law, establish program.**  
The Millington Water Department is to comply with Tennessee Code Annotated,

§ 68-221-101 et seq., as well as the rules and regulations governing the construction of public water supply systems, 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 undesirable water users. (1981 Code, § 8-402)

**18-403. Cross-connections, etc., unlawful except under certain conditions.** It shall be unlawful for any person to cause a cross-connection, auxiliary intake, by-pass, or inter-connection to be made, or to 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 Environment, and the operation of such cross-connection, auxiliary intake, by-pass, or inter-connection is at all times under the direct supervision of the water superintendent of the City of Millington. (1981 Code, § 8-403)

**18-404. Certain persons required to file statement of non-existence of cross-connections, etc.** 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 water superintendent of the City of Millington a statement of the nonexistence of unapproved or unauthorized cross-connection, 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. (1981 Code, § 8-404)

**18-405. Inspections.** It shall be the duty of the Millington Water Department 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 water superintendent of the City of Millington and as approved by the Tennessee Department of Health and Environment. (1981 Code, § 8-405)

**18-406. Right of entry - obtaining information.** The water superintendent of the City of Millington, or his authorized representative, shall have the right to enter at any reasonable time any property served by a connection to the Millington Water Department for the purpose of inspecting the piping system or systems thereof for cross-connections, auxiliary intakes, by-passes, 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-connection. (1981 Code, § 8-406)

**18-407. Existing cross-connections, etc. - reasonable time to remove.** Any person who now has cross-connections, auxiliary intakes, by-passes 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 water superintendent of the City of Millington. (1981 Code, § 8-407)

**18-408. Protective requirements for existing buildings.**

(1) Existing buildings will be assessed by the cross-connection control division of the Millington Water Department to determine whether external or internal protection is needed. For purposes of this section:

(a) External protection shall be defined as installation of one or more state approved RP devices on the service line as required to protect the public water supply.

(b) Internal protection shall be defined as the installation of all DCV, PVB, AVB, RP, or approved air gaps within the building, required to protect the public water supply and for the safety of the water supply within the building itself.

(2) External protection shall be required for existing buildings under the following circumstances:

(a) When internal protection is more expensive than a state approved RP device.

(b) When internal protection throughout the building would be excessively difficult and or costly to inspect annually.

(c) When the nature of the facility is such that it poses a threat in spite of standard precautions.

(d) When insufficient information is available or information on the hazards of the facility is refused to the cross-connection division of the Millington Water Department, making proper determination of internal protection virtually impossible.

(e) When the nature and mode of operation of the facility result in frequent adaptations of the plumbing systems.

(f) When the facility is serviced by an auxiliary water supply, in addition to the Millington Water System.

(3) Existing buildings undergoing plumbing adaption shall be subject to the same plans review and inspection procedures applied to new construction under this chapter. (1981 Code, § 8-408)

**18-409. Protective requirements for new construction.** The Millington Water Department shall require the following concerning backflow prevention devices on new construction:

(1) A plumbing plan showing all backflow prevention devices, particularly RP devices, vacuum breakers, and air gaps, must be provided to the Millington Water Department Cross-Connection Control Division for approval on all new construction. Plans must include all water lines, sewer lines, and fire protection systems (where applicable).

(2) State approved RP devices are required on new construction as follows:

(a) All new construction except single or two family dwellings, are required to have an RP device on the service line after the meter. Absolutely no connections will be allowed between the meter and the RP device.

(b) In apartment complexes with individual meters an RP device is required only on the line serving common facilities (laundries, swimming pools, lawn sprinkler, etc.)

(c) RP devices are required on any individual line serving a boiler, cooling tower, lawn sprinkler, irrigation system, or other piece of equipment where back pressure may exist or extremely hazardous solutions may be used.

(3) Vacuum breakers are required on all threaded hose connections both indoors and outdoors and on all toilet flush valves. Anti-siphon ball cocks are required on all tank toilets.

(4) Prior to installation of any fire, irrigation, or lawn sprinkler systems, plans must be submitted and approved by the cross-connection department of the Millington Water Department, in order to obtain a permit for installation of said systems.

(5) Inspection of approved systems shall take place before placement of an RP device, during construction of the system and or upon completion of the system. Inspection of the system will be performed by the cross-connection department.

(6) At all new installations the backflow prevention devices will be tested by the cross-connection control department before the device is put into service.

(7) Customers of the Millington Water System shall obtain approval from the cross-connection control department of the Millington Water Department before any corrective action or protective devices are used or installed.

(8) All new installations of state approved RP devices will be required to be installed as a permanent plumbing fixture and must be accessible for testing at all times. All precautions necessary to provide for freeze protection on outside installations must be taken including but not limited to the following:

(a) An insulated tight fitting cover shall be supplied with the installation, but no insulation will be permitted to interfere with discharges of water or the operation of the discharge zone of the RP device. Use of heat tape will be permitted on all piping above ground leading to the RP device as long as it does not interfere with discharge from the device.

(b) The supply line to the RP device must be at least eighteen (18) inches deep to prevent freezing.

(9) Two RP devices must be installed in parallel manner where the water service cannot be interrupted for testing the device or in high hazard situations.

(10) Upon inspection of an approved backflow prevention device, if the device is found to be unsatisfactory, in need of repair, or failing inspection, the customer or plumbing purveyor shall have thirty (30) days in which to make necessary repairs or replacement of the unit. Thirty (30) days after receiving written notice of a failed inspection, the water service will be disconnected by the superintendent of the City of Millington Water Department for the protection of other customers. (1981 Code, § 8-409)

**18-410. Protective requirements for construction of fire lines and sprinkler systems.** The Millington Water Department shall require the following concerning backflow prevention devices on fire lines and sprinkler systems:

(1) A wet sprinkler system or standpipe will be required to have a double check assembly device installed on the fire service line before any taps. If any antifreeze solutions are utilized for any fire protection sprinkler application, an RP device shall be installed at the point of connection on the supply side of the portion of the sprinkler system having such antifreeze solution.

(2) Storage or fire tanks which are fed from the bottom will be required to have an RP device installed on the service line before any taps.

(3) When several service lines are being fed by one service, an RP device will be required on the service line before any taps.

(4) Any fire protection system maintaining a stagnant water supply or serviced by a private water supply such as wells, ponds, etc. which is also connected to the public water system must be isolated by an RP device on the service line.

(5) Dry stand pipes and dry sprinkler systems will be required to have a double check assembly installed on the fire service line before any taps.

(6) Storage or fire tanks which fill from the top and have sufficient air gaps will not be required to have RP devices installed.

(7) All RP devices must be state approved devices. (1981 Code, § 8-410, as amended by Ord. #2003-49, Feb. 2004)

**18-411. General requirements for the installation of RP devices.**

(1) All RP devices must be a state approved brand and model.

(2) Two parallel RP devices are required at facilities where the interruption of water service for repair or testing would be detrimental to the business.

(3) No connections are allowed between the meter and the RP device.

(4) The installation of RP devices in pits will only be allowed within the strict discretion of the water superintendent and the cross-connection division of the Millington Water Department when there is no other available location for installation.

(5) RP devices shall not be subject to flooding:

(a) RP devices should not be located in any area subject to frequent flooding including areas with floor drains which may become clogged.

(b) Provisions must be made for discharging water from the RP device and its enclosure.

(c) The lowest point of the relief valve should be located at a minimum of two (2) times the nominal pipe diameter plus twelve (12) inches above the finished floor.

(6) Manufacturer recommendations for installation must be followed to insure adequate clearance for servicing the relief valve.

(7) The RP device should not be located above equipment which may be damaged from the discharge of water from the RP device. Adequate means of handling these discharges into drain ports, drain pipes, etc., is recommended. If a drain pipe is used to handle discharge from the relief valve, there must be an adequate air gap of at least two (2) times the diameter of the supply line to the RP device.

(8) Installation of the unit must be made in a manner where it can be easily tested.

(a) The unit shall not be installed higher than seven (7) feet above floor level unless special provisions are made for testing and servicing the unit.

(b) Enclosures must provide doors or removable lids to provide for testing, repairing and replacement.

(c) All ordinance requirements and manufacturer specification must be followed.

(9) All lines must be flushed thoroughly before installing the RP device to prevent fouling of the lines.

(10) Pipe dope is not allowed for the installation of RP devices. Teflon tape can be used as long as care is taken to prevent the fouling of the check valves.

(11) All RP devices must be installed in insulated housing to prevent freezing.

(12) The incoming water line must be at least eighteen (18) inches deep to prevent freezing.

(13) All units must be installed as permanent units and any precaution necessary to keep the device from freezing must be taken. The unit must be installed so as to prevent the necessity of flushing every winter.

(14) Any new, repaired or replaced unit that has been taken out of service for any reason must be tested before being put back into service. Any repairs, replacements, and/or new installations will be made by plumbers and/or plumbing contractors who are licensed and certified in the repair of or installation of RP devices. Any cost of repairs or installation of new RP devices shall be at the sole expense of the owner or occupant of the premises. (1981 Code, § 8-411)

**18-412. Protection from contamination - warning signs.** The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

W A T E R U N S A F E

F O R D R I N K I N G

Minimum acceptable sign shall have black letters, one-inch high located on a red background. (1981 Code, § 8-412)

**18-413. Penalties.** Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be punished in accordance with the general penalty clause for this code, and each day of continued violation after conviction shall constitute a separate offense. In addition to the foregoing fines and penalties, the water superintendent of the City of Millington shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass, or inter-connection, and service shall not be restored until such cross-connection, auxiliary intake, by-pass, or interconnection has been discontinued. (1981 Code, § 8-413)



## CHAPTER 5

### STORM WATER ORDINANCE

- 18-501. Legislative findings and policy.
- 18-502. Creation of storm water utility.
- 18-503. Definitions.
- 18-504. Funding of storm water utility.
- 18-505. Storm water utility special revenue fund.
- 18-506. Storm water utility annual budget.
- 18-507. Storm water user fees established.
- 18-508. Equivalent residential unit (ERU).
- 18-509. Property classification for storm water user fees.
- 18-510. Base rate.
- 18-511. Adjustments to storm water user fees.
- 18-512. Payment of fees and charges.
- 18-513. Billing procedures and penalties for late payment.
- 18-514. Appeal of fees.

**18-501. Legislative findings and policy.** The board of mayor and aldermen (hereinafter called the "board") finds, determines and declares that the storm water system which provides for the collection, treatment, storage and disposal of storm water provides benefits and services to all property within the incorporated city limits. Such benefits include, but are not limited to: the provision of adequate systems of collection, conveyance, detention, treatment and release of storm water; the reduction of hazards to property and life resulting from storm water runoff; improvements in general health and welfare through reduction of undesirable storm water conditions; and improvements to water quality in the storm water and surface water system and its receiving waters. (as added by Ord. #2006-8, July 2006)

**18-502. Creation of storm water utility.** For purposes of the Federal Clean Water Act and of Tennessee Code Annotated, §§ 68-221-1101 et seq., there is created a storm water utility which shall consist of a program and such staff as the board shall authorize, within the city's department of economic development and planning. The storm water utility, under the legislative policy, supervision and control of the board, shall:

(1) Administer the acquisition, design, construction, maintenance and operation of the storm water utility system, including capital improvements designated in the capital improvement program, in conjunction with the Public Works Department;

(2) Administer and enforce this ordinance and all regulations and procedures adopted pursuant to this ordinance or other applicable law relating to the design, construction, maintenance, operation and alteration of the utility

storm water system, including, but not limited to, the quantity, quality and/or velocity of the storm water conveyed thereby;

(3) Advise the board and city administration on matters relating to the storm water utility;

(4) Direct the preparation of and any revisions to the comprehensive drainage plan for adoption by the board;

(5) Review plans and approve or deny them, and inspect and accept or reject (if not in accordance with applicable law and regulations) extensions and connections to the system;

(6) Enforce regulations to protect and maintain water quality and quantity within the system in compliance with water quality standards established by state, regional and/or federal agencies as now adopted or hereafter amended;

(7) Annually analyze the cost of services and benefits provided and the system and structure of fees, charges, civil penalties and other revenues of the storm water utility. (as added by Ord. #2006-8, July 2006)

**18-503. Definitions.** For the purpose of this chapter, the following definitions shall apply. Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Base rate" means the storm water user fee for a detached single family residential property in the city.

(2) "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement or extension of storm water facilities; preliminary planning to determine the economic and engineering feasibility of storm water facilities; the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of storm water facilities; and the inspection and supervision of the construction of storm water facilities.

(3) "Developed property" means real property which has been altered from its natural state by the creation or addition of impervious areas, by the addition of any buildings, structures, pavement or other improvements.

(4) "Equivalent residential unit" or "ERU" means the average square footage of a detached single family residential property, which has been established as three thousand (3,000) square feet.

(5) "Exempt property" means all properties of the federal, state, county, and city governments and any of their divisions or subdivisions, and property that does not discharge storm water runoff into the storm water or flood control facilities of the city.

(6) "Fee" or "Storm water user fee" means the charge established under this ordinance and levied on owners or users of parcels or pieces of real property to fund the costs of storm water management and of operating, maintaining, and improving the storm water system in the city. The storm water user fee is in addition to any other fee that the city has the right to charge under any other rule or regulation of the city.

(7) "Fiscal year" means July 1 of a calendar year to June 30 of the next calendar year, both inclusive.

(8) "Impervious surface" means a surface that is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted or other surface which impedes the natural infiltration of surface water.

(9) "Impervious surface area" means the number of square feet of horizontal surface covered by buildings and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.

(10) "Other developed property" means developed property other than single-family residential property. Such property shall include, but not be limited to, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices, and churches.

(11) "Person" means any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation, partnership, limited liability company or other entity organized or existing under the laws of this or any other state or country.

(12) "Property owner" means the property owner of record as listed in the county's tax assessment roll. A property owner includes any individual, corporation, limited liability company, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, executor, administrator or personal representative.

(13) "Single family residential property" means a developed property which serves the primary purpose of providing a permanent dwelling unit to a single family. A single family detached dwelling or a townhouse containing an accessory apartment or second dwelling unit is included in this definition.

(14) "Storm water" means storm water runoff, snow/ice melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration, and drainage.

(15) "Storm water management fund" or "fund" means the storm water utility special revenue fund created by this ordinance to operate, maintain, and improve the city's storm water system.

(16) "Storm water management" means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, flood plains, flood control, grading, erosion, tree conservation, and sediment control.

(17) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(18) "User" or "other user" shall mean the individual or business obtaining utilities for properties where utilities are active and does not apply to vacant or undeveloped properties. (as added by Ord. #2006-8, July 2006, and amended by Ord. #2017-11, June 2017)

**18-504. Funding of storm water utility.** Funding for the storm water utility's activities may include, but is not limited to, the following:

- (1) Storm water user fees;
- (2) Civil penalties and damage assessments imposed for or arising from the violation of the city's storm water management ordinance;
- (3) Storm water permit and inspection fees; and
- (4) Other funds or income obtained from federal, state, local, and private grants, or revolving funds, and from the Local Government Public Obligations Act of 1986<sup>1</sup>

To the extent that the storm water drainage fees collected are insufficient to construct needed storm water drainage facilities, the cost of the same may be paid from such city funds as may be authorized by the board. (as added by Ord. #2006-8, July 2006)

**18-505. Storm water utility special revenue fund.** All revenues generated by or on behalf of the storm water utility shall be deposited in a storm water utility special revenue fund, which shall be kept in an account separate from other accounts of the City of Millington. As required by Tennessee Code Annotated, § 68-221-1107, storm water utility revenues shall be used exclusively for purposes set out in Tennessee Code Annotated, § 68-221-1101 et seq. Storm water utility revenues shall be spent in accordance with the budget for the storm water utility adopted by the board. (Ord. #2006-8, July 2006)

**18-506. Storm water utility annual budget.** The board shall adopt an operating budget for the storm water utility each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service (if any). (as added by Ord. #2006-8, July 2006)

**18-507. Storm water user fees established.** As authorized by Tennessee Code Annotated, § 66-221-1107, there shall be imposed on each and every developed property in the city, except exempt property, a storm water user fee, which shall be set from time to time by ordinance, in the manner and

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<sup>1</sup>Tennessee Code Annotated, title 9, chapter 21

amount prescribed by this ordinance and state law. Prior to establishing or amending user fees, the city shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the city at least thirty (30) days in advance of the meeting of the board at which it shall consider the adoption of the fee or its amendment. (as added by Ord. #2006-8, July 2006)

**18-508. Equivalent residential unit (ERU).** (1) Establishment of ERU. There is established, for purposes of calculating the storm water user fees, the equivalent residential unit (ERU).

(2) Definition. The ERU is the average square footage of a detached single family residential property within the city, which has been established as three thousand (3,000) square feet.

(3) Setting the ERU. The ERU shall be set by the board from time to time by ordinance.

(4) Source of ERU. The board shall have the discretion to determine the source of the data from which the ERU is established, taking into consideration the general acceptance and use of such source on the part of other storm water systems and the reliability and general accuracy of the source. The board shall have the discretion to determine the impervious surface area of developed property through property tax assessor's rolls, site examination, mapping information, aerial photographs and other reliable information. (as added by Ord. #2006-8, July 2006, as amended by Ord. #2017-11, June 2017)

**18-509. Property classification for storm water user fees.**

(1) Property classifications. For purposes of determining the storm water user fees, all properties in the city are classified into one of the following classes:

- (a) Single family residential property;
- (b) Other developed property;
- (c) Exempt property.

(2) Single family residential fee. The board finds that the intensity of development of most parcels of real property in the municipality classified as single family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structures, and other impervious areas) on each such parcel. Therefore, all single-family residential properties in the city shall be charged a flat storm water management fee, equal to the base rate, regardless of the size of the parcel or the improvements.

(3) Other developed property fee. The fee for other developed property (i.e., non-single-family residential property) in the municipality shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one ERU. The impervious surface area for other developed property is the square footage for the buildings and other improvements on the property. The minimum storm water management fee for

other developed property shall equal the base rate for single family residential property.

(4) Exempt property. There shall be no storm water user fee for exempt property.(as added by Ord. #2006-8, July 2006)

**18-510. Base rate.** The board shall, by ordinance, establish the base rate for the storm water user fee. The base rate shall be calculated to insure adequate revenues to fund the costs of storm water management and to provide for the operation, maintenance, and capital improvements of the storm water system in the city. The base rate, which is the rate for single family residential property and is the rate for each ERU on all other properties subject to this title, shall be as follows:

<u>Effective Date</u>	<u>Fee</u>
August 1, 2006	\$ 2.50
July 1, 2017	\$ 3.80

(as added by Ord. #2006-8, July 2006, and replaced by Ord. #2017-11, June 2017)

**18-511. Adjustments to storm water user fees.** The storm water utility shall have the right on its own initiative or upon request of the property owner to adjust upward or downward the storm water user fees with respect to any property other than residential property, based on the approximate percentage of any significant variation in the volume or rate of storm water, or any significant variation in the quality of storm water, emanating from the property for which an adjustment is considered, compared to other similar properties. In making determinations of the similarity of property, the storm water utility shall take into consideration the location, geography, size, use, impervious area, storm water facilities on the property, and any other factors that have a bearing on the variation. Adjustments shall be made in accordance with objective criteria and measurable standards to be developed by the storm water utility after consultation with the city's engineer, and such criteria and standards shall be available at city hall to the owner of any property subject to non-residential user fees upon request.(as added by Ord. #2006-8 July 2006)

**18-512. Payment of fees and charges.** The owner or other user of each non-exempt lot or parcel shall be liable for the storm water user fees and charges as provided in this ordinance<sup>1</sup>, as shall be amended from time to time.(as added by Ord. #2006-8, July 2006 and amended by Ord. #2006-9, November 2006)

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<sup>1</sup>Ordinances setting rates are of record in the office of the city clerk.

**18-513. Billing procedures and penalties for late payment.**

(1) Rate and collection schedule. The storm water user fees shall be billed on a utility bill issued by either the City of Millington or Memphis Light, Gas and Water (MLGW) for all properties with active utilities or on an invoice issued by the City of Millington for properties without active utilities. Such billings and due dates shall be based on the regular billing cycles and due dates for utility customers and shall be determined by the city finance director for all other properties subject to this title.

(2) Penalties for late payment. Storm water user fees shall be subject to the same late fee and terms established for other items on a utility bill and shall become delinquent ten (10) days after the date of billing for other bills and shall pay the same late fee as established for City of Millington utility bills.

(3) The city shall be entitled to recover attorney's fees and expenses, including court costs, incurred in collecting delinquent storm water user fees, including late fees. The city is authorized to file suit to recover any unpaid amounts due under this ordinance.

(4) Mandatory statement. Pursuant to Tennessee Code Annotated, § 68-221-1112, each bill for storm water user fees shall contain the following statement in bold type:

**"THIS TAX HAS BEEN MANDATED BY CONGRESS"**

(as added by Ord. #2006-8, July 2006, and amended by Ord. #2017-11, June 2017)

**18-514. Appeal of fees.** (1) Generally. Any person who disagrees with the calculation of the non-residential storm water user fee as provided in this ordinance, or who seeks a non-residential storm water user fee adjustment based upon storm water management practices, may appeal such fee determination to the storm water utility within thirty (30) days from the date of the last bill containing storm water user fees charges. Any appeal shall be filed in writing and shall state the grounds for the appeal. The storm water utility director may request additional information from the appealing party.

(2) Adjustments. Storm water user fee adjustments for storm water management practices may be considered for reductions in runoff volume, including discharge to a non-city drainage system and properly designed, constructed and maintained existing retention facilities, i.e. evaporation and recharge. Based upon the information provided by the utility and the appealing party, and in accordance with the criteria and standards adopted by the storm water utility, the storm water utility shall make a final calculation of the storm water user fee. The storm water utility shall notify the property owner in writing, of its decision. Any property owner dissatisfied with the decision upon appeal of the storm water utility shall have the right to appeal to the board of storm water appeals, which shall be the city's board of zoning appeals.

(3) All hearings of the board of storm water appeals shall be open to the public. Any person desiring to appeal from the fee determination of the storm water utility shall deliver a written notice of appeal to the board of storm water appeals to the city clerk and recorder within ten (10) business days after the date of determination of the initial appeal by the storm water utility. Such appeal shall state the grounds for the appeal.

(4) The board of storm water appeals shall have the right to request and receive evidence and opinions of the city's engineers, the storm water utility, and such other persons and entities as it may deem appropriate in considering an appeal as to storm water user's fees. The appellant shall have the right to present his appeal in person or to have a representative of his choosing to present his case to the board of storm water appeals and shall also have the right to present such evidence and opinions as the appellant or his representative shall deem appropriate. (as added by Ord. #2006-8, July 2006, and amended by Ord. #2007-3, June 2007)



## CHAPTER 6

### FATS, OILS AND GREASE

#### SECTION

- 18-601. Purpose.
- 18-602. Definitions.
- 18-603. Control plan for FOG and food waste/grease trap requirement.
- 18-604. General requirements.
- 18-605. Design requirements.
- 18-606. Grease trap maintenance and pumping.
- 18-607. Biological additives.
- 18-608. Chemical treatment prohibited.
- 18-609. Sand, soil and oil interceptors.
- 18-610. Commercial laundry requirements.
- 18-611. Control equipment.
- 18-612. Alteration of control methods.
- 18-613. Enforcement and penalties.
- 18-614. Severability.

**18-601. Purpose.** The purpose of this chapter is to control discharges into the public sewerage collection system and wastewater treatment plant that interfere with the operations of the system, cause blockage and plugging of pipelines, interfere with normal operation of pumps and their controls, and contribute waste of a strength or form that either causes treatment difficulties or is beyond the treatment capability of the wastewater treatment plant. (as added by Ord. #2010-04, April 2010)

**18-602. Definitions.** (1) "Food service facilities." (a) For purposes of this chapter, a "food service facility" is any facility whose primary activity is preparing, serving, or otherwise making available for consumption foodstuffs and that use one (1) or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sauteing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, poaching, infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing.

(b) In addition, any facility whose primary activity is not preparing, serving or otherwise making available foodstuffs for consumption, but which does prepare, serve or otherwise make available for consumption foodstuffs as a secondary activity, shall be classified as a food service facility if it uses a deep fryer.

(c) Food service facilities may include restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons,

jails, churches, camps, caterers, manufacturing plants, and all other sewer users that discharge applicable waste into the city's systems, as determined by the City of Millington.

(2) "Grease." Material composed primarily of Fats, Oil, and Grease (FOG) from animal or vegetable sources. For purposes of this chapter, the words "fats, oil and grease" are all together sometimes called "grease." Grease does not include petroleum based products.

(3) "Grease trap." A device for separating and retaining waterborne greases and grease complexes prior to the wastewater exiting the trap and entering the city's sanitary sewer collection and treatment system. Grease traps also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection and treatment system.

(4) "Oil/water separator." An approved and industry standard system that is specifically designed and manufactured to separate oil from water. The system shall allow the oil to be collected and removed on a regular basis as to prevent it from being discharged into the city's wastewater collection system. Only oil/water separators manufactured for that specific operation will be approved. Adequate support literature from the manufacturer will be required so as to allow a proper review by the City of Millington.

(5) "Person." As used in this chapter, "person" means and includes any individual, business entity, for-profit or non-profit corporation, limited liability company, partnership or limited partnership, and any other entity or association engaged in activities subject to this chapter.

(6) "User." Any person or establishment, including those located outside the jurisdictional limits of the city, who contributes, causes, or permits the contribution or discharge of wastewater into the city's wastewater collection and treatment system, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater. (as added by Ord. #2010-04, April 2010)

**18-603. Control plan for FOG and food waste/grease trap requirement.** (1) Pumping/maintenance control plan required. Before undertaking any new construction, renovation, or expansion of a food service facility, the owner, tenant, developer or other intended user of such facility shall submit to the city a FOG and food waste control plan that shows the user's plan for pumping and maintenance of the grease trap that will effectively control the discharge of undesirable materials into the city's wastewater collection system. This submittal must be included with the application for a building permit.

(2) Existing food service facilities. Food service facilities in existence as of the effective date of the ordinance comprising this chapter shall also be required to submit to the city a FOG and food waste control plan that shows the proposed plan for pumping and maintenance of its grease trap to effectively control the discharge of undesirable materials into the city's wastewater

collection system. Existing food service facilities shall have three (3) months after the effective date of the ordinance comprising this chapter to submit a control plan as described in subsection (1) above and to implement a control plan.

(3) Grease trap for existing food service facilities. Any existing food service facility that is not undertaking new construction, renovation or expansion but that does not have a grease trap shall have a period of six (6) months after the effective date of the ordinance comprising this chapter to install such a grease trap and notify the city of such installation and to submit its control plan as required under subsection (1) of § 18-603. There will be no "grandfathering."

(4) City right to monitor. The City of Millington shall have the right to monitor the waste haulers who provide service to the food service facilities or other facilities with a grease trap attached to the City of Millington's sewerage system in order to insure property pumping and disposal of pumpage and maintenance of required information and to require their compliance with the applicable provisions of this chapter. (as added by Ord. #2010-04, April 2010)

**18-604. General requirements.** (1) Installation requirements. All existing, proposed, or newly remodeled food service facilities inside the City of Millington wastewater service area shall be required to install, at the user's expense, an approved grease trap and to properly operate and maintain such grease trap at all times.

(2) Sanitary sewer flows. Sanitary sewer flows from toilets, urinals, lavatories, etc. shall not be discharged into the grease trap. These flows shall be conveyed separately to the sanitary sewer service lateral.

(3) Floor drains. Only floor drains which discharge or have the potential to discharge grease shall be connected to a grease trap.

(4) Garbage grinders/disposers. It is recommended that solid food waste products be disposed of through normal solid waste/garbage disposal means. If a grinder/disposal is used, it must be connected to the grease trap. The use of grinders is discouraged, since use of a grinder decreases the operational capacity of the grease trap and requires an increased pumping frequency to ensure continuous and effective operation.

(5) Dishwashers. Commercial dishwashers in food service facilities required to have grease traps under this chapter must be connected to the grease trap. Dishwashers discharge soap and hot water which can melt grease and allow it to pass through an undersized grease trap. Traps must be sized to allow enough detention time so that water will cool to the temperature at which grease will solidify and float to the top of the trap.

(6) Location. Every grease trap shall be installed outside the building and upstream from the sanitary sewer service lateral connection. This will allow easy access for inspection, cleaning, and removal of the intercepted grease at

any time. A grease trap may not be installed inside any part of a building without prior written approval by the City of Millington.

(7) Pass through limits. The current Millington Sewer Use Ordinance<sup>1</sup> applies to those persons subject to this chapter.

(8) Waiver. The city reserves the right to waive elements of the general requirements on a case by case basis, at the request of the affected user, and provided the city determines that such waiver will not adversely affect the city's wastewater and sewer system. (as added by Ord. #2010-04, April 2010)

**18-605. Design requirements**. (1) Construction. Grease traps shall be constructed in accordance with the City of Millington's standards and shall have a minimum of two (2) compartments with fittings designed for grease retention. All grease removal devices or technologies shall be subject to the written approval of the City of Millington. Such approval shall be based on demonstrated removal efficiencies of the proposed device or technology.

(2) Access. Access to grease traps shall be available at all times, to allow for their maintenance and inspection. Access to each grease trap shall be provided by two (2) manholes (one (1) on each compartment), which shall terminate at finished grade, with cast iron frame and cover.

(3) Load-bearing capacity. In areas where additional weight loads may exist, the grease trap shall be designed to have adequate load-bearing capacity. (Example: where there is vehicular traffic in driving or parking areas).

(4) Inlet and outlet piping. Wastewater discharging to a grease trap shall enter only through the inlet pipe of the trap. Each grease trap shall have only one (1) inlet and one (1) outlet pipe.

(5) Grease trap sizing. The size of each grease trap shall be the size required under the Shelby County Code of Ordinances, including any model codes adopted by reference by the county. (as added by Ord. #2010-04, April 2010)

**18-606. Grease trap maintenance and pumping**.

(1) Cleaning/pumping required. The user, at the user's expense, shall maintain all grease traps to assure proper operation and efficiency and to maintain compliance with Table B - Plant Protection Criteria of § 18-207 of the Millington Municipal Code. Maintenance of a grease trap shall include the complete removal of all contents, including floating materials, wastewater, and bottom sludge and solids. This work shall be performed by a licensed hauler. Decanting or discharging of removed waste back into the trap from which it was removed or into any other grease trap, for the purpose of reducing the volume to be disposed, is prohibited. Cleaning/pumping of a grease trap shall include a

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<sup>1</sup>Municipal code reference

Sewer use: title 18, chapter 2.

thorough inspection of the trap and its component parts. Any needed repairs shall be noted and shall be made immediately at the user's expense.

The hauler (party who will clean and pump any grease trap) must notify the City of Millington at least two (2) business days prior to beginning the work. Such notice shall be sent by email to d.dunn@millingtontn.gov or by fax to 901-872-4113 or delivered to 7930 Nelson Road, Millington, TN.

(2) Cleaning/pumping frequency. Each grease trap must be pumped out completely a minimum of once every four (4) months, or more frequently, as determined by the City of Millington, as needed to prevent deposit of grease into the city's sanitary sewer system.

(3) Disposal. Every waste hauler who removes waste from any grease trap shall dispose of such waste at a facility approved to receive such waste in accordance with the provisions of this chapter and other applicable law. No pumpage removed by cleaning and/or pumping shall be returned to any private or public portion of the city's sanitary sewer collection system. All pumpage from grease traps must be tracked by a hauler's manifest, which identifies the pumping, hauling, and disposal of waste from each trap. Every hauler must provide a copy of such manifest to each customer, and every food service facility subject to this chapter must obtain from the hauler and retain for a period of twenty-four (24) months a copy of every such manifest.

(4) Maintenance log. A grease trap cleaning/maintenance log showing each pumping for the previous twenty-four (24) months shall be maintained by each food service facility. This log shall include the date, time, amount pumped, name and contact information of the hauler, and disposal site. Said log shall be kept in a conspicuous location for inspection by the city during normal business hours. Said log shall be made available to the City of Millington or its representative upon request.

(5) Submittal of records. Each user shall submit all cleaning and maintenance records to the City of Millington twice each year. Such submittals shall be due March 1st and September 1st. The maintenance records shall include the following information:

- (a) Facility name, address, contact person, and phone number;
- (b) Company name, address, phone number, and contact name of person responsible for performing the maintenance, cleaning, pumping, or repair of grease trap;
- (c) Types of maintenance performed;
- (d) Dates maintenance was performed;
- (e) Date of next scheduled maintenance; and
- (f) Copies of haulers' manifests.

The records shall be submitted to:

City of Millington  
Attn. Storm Water Manager  
7930 Nelson Road  
Millington, Tennessee 38053

(6) City inspections. The City of Millington will perform periodic inspections of food service facilities subject to this chapter and shall notify the user of any additional required maintenance or repairs needed for each grease trap. Upon receipt of written notification by the city, the user shall be required to perform the maintenance and/or repairs and provide the city with a report and records of said maintenance within fourteen (14) calendar days. Upon inspection by the City of Millington the user may be required to install, at its expense, additional controls to provide a complete system which prevents discharges of undesirable materials into the wastewater collection system.

Each food service facility shall pay a one hundred dollars (\$100.00) annual inspection fee that shall be due and payable to the City of Millington on August 1, 2017 and on August 1 of each year thereafter. Notice of the payment due date of said tax shall be mailed by the city to each facility, at the facility address, at least thirty (30) days prior to August 1. (as added by Ord. #2010-04, April 2010, and amended by Ord. #2017-11, June 2017)

**18-607. Biological additives.** Any biological additive(s) placed into the grease trap or building discharge line, including but not limited to, enzymes, commercially available bacteria, or other additives designed to absorb, purge, consume, treat, or otherwise eliminate fats, oils, and grease, shall require written approval by the City of Millington prior to use. The use of such additives shall in no way be considered as a substitute for the maintenance and pumping procedures required herein. (as added by Ord. #2010-04, April 2010)

**18-608. Chemical treatment prohibited.** Chemical treatments such as drain cleaners, acid, or other chemical solvents designed to dissolve or remove grease shall not be allowed to enter the grease trap. (as added by Ord. #2010-04, April 2010)

**18-609. Sand, soil, and oil interceptors.** (1) Traps/interceptors required. All car washes, truck washes, garages, service stations, car and truck maintenance facilities, fabricators, utility equipment shops, and other facilities (as determined by the City of Millington) that have sources of sand, soil, and oil shall install effective sand, soil and oil traps, interceptors, and/or oil/water separators. These systems shall be sized to effectively remove sand, soil, and oil at the expected flow rates. These systems shall be, at the user's expense, cleaned or pumped on a regular basis to prevent impact upon the wastewater collection and treatment systems. Users whose systems are deemed to be ineffective by the City of Millington shall be asked to change the cleaning frequency or to increase the size of the system. Owners or operators of washing facilities will be required to prevent the inflow of detergents and rainwater into the wastewater collection system.

(2) Oil/water separators. Oil/water separator installations shall be required at facilities that accumulate petroleum oils and greases and at facilities

deemed necessary by the City of Millington. (as added by Ord. #2010-04, April 2010)

**18-610. Commercial laundry requirements.** Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the wastewater collection system of solids one-half inch (1/2") or larger in size such as rags, strings, buttons, or other solids detrimental to the system. (as added by Ord. #2010-04, April 2010)

**18-611. Control equipment.** (1) The equipment or facilities installed to control FOG, food waste, sand, soil, oil, and lint must be designed and installed in accordance with the plumbing code as adopted by the City of Millington, the Tennessee Department of Environment and Conservation guidelines, most current engineering standards, or other applicable guidelines approved by the City of Millington. Underground equipment shall be tightly sealed to prevent inflow of rainwater and shall be easily accessible to allow regular maintenance and inspection.

(2) Control equipment shall be maintained by the owner and/or operator of the facility to prevent a stoppage of the wastewater collection system, and the accumulation of FOG, food waste, sand, soil, and lint in the collection lines, pump stations, and wastewater treatment plant.

(3) If the City of Millington is required to clean out the wastewater collection lines, as a result of a stoppage resulting from poorly maintained control equipment (or lack thereof), the owner or operator shall be required to pay to the city, upon presentation of a statement of costs, all costs for labor, equipment, materials, and any overhead costs incurred by the city, in addition to any penalties or fines on account of any sanitary sewer overflow due directly to the stoppage.

(4) The city shall have the right to inspect and approve any and all installations of control equipment at all reasonable times. (as added by Ord. #2010-04, April 2010)

**18-612. Alteration of control methods.** The City of Millington shall have the right to require additional control measures if existing control equipment is shown to be insufficient to protect the city's wastewater collection system and wastewater treatment plant from interference due to the discharge of FOG, sand, soil, lint, or any other undesirable materials. (as added by Ord. #2010-04, April 2010)

**18-613. Enforcement and penalties.** (1) This chapter shall be enforced by the Storm Water Manager of the City of Millington.

(2) Any person who violates this chapter, in part or whole, shall be guilty of a violation of the Millington Municipal Code. The city may either:

(a) Issue a citation to city court, in which case the alleged violator, upon conviction, shall be subject to pay a civil penalty not to exceed fifty dollars (\$50.00) per day, plus payment to the city of all costs incurred to repair any damage to city property caused by the violation; or

(b) Bring an action against the alleged violator in state court, in which case alleged violator, upon conviction shall be subject to pay a civil penalty in the amount of up to one thousand dollars (\$1,000.00), plus payment to the city of all costs incurred to repair any damage to city property caused by the violation. In either case, each day that a violation exists shall constitute a separate offense.

(3) In addition to imposition of a civil penalty, the city shall be entitled to seek an injunction from a court of competent jurisdiction to require compliance with this chapter or to enjoin continued operation of a food service facility or a waste hauler subject to this chapter that is in violation hereof until such violation has been cured. (as added by Ord. #2010-04, April 2010, and amended by Ord. #2017-11, June 2017)

**18-614. Severability.** The provisions of this chapter are declared to be severable. If any provision of this chapter should be declared by a court of competent jurisdiction to be invalid or unenforceable, the portions of this chapter not so declared shall continue in full force and effect. (as added by Ord. #2010-04, April 2010)



**TITLE 19**

**ELECTRICITY AND GAS**

**[RESERVED FOR FUTURE USE]**

**TITLE 20****MISCELLANEOUS****CHAPTER**

1. SHELBY COUNTY AIR CODE.
2. DEPARTMENT OF HEALTH AND SANITATION.
3. MILLINGTON MUNICIPAL AIRPORT AUTHORITY.

**CHAPTER 1****SHELBY COUNTY AIR CODE****SECTION**

- 20-101. Shelby County Air Code effective within city.  
20-102. Fees for services.  
20-103.--20-124. Repealed.

**20-101. Shelby County Air Code effective within city.** The Shelby County Air Code in effect in Shelby County shall also be effective within the corporate limits and shall be enforced by the Shelby County Health Department. (1981 Code, § 8-501, as replaced by Ord. #2002-2, Nov. 2002, and replaced by Ord. #2020-15, Oct. 2020 *Ch17\_01-09-23*)

**20-102. Fees for services.** The fees established from time to time by the Shelby County Health Department in order to cover the costs incurred in administering the Shelby County Air Code shall also be effective within the corporate limits and shall be collected and retained by the Shelby County Health Department. (1981 Code, § 8-502, as replaced by Ord. #2002-2, Nov. 2002, amended by Ord. #2015-20, Oct. 2015, and replaced by Ord. #2020-15, Oct. 2020 *Ch17\_01-09-23*)

**20-103.--20-124. Repealed.** (1981 Code, as repealed by Ord. #2020-15, Oct. 2020 *Ch17\_01-09-23*)

## CHAPTER 2

### DEPARTMENT OF HEALTH AND SANITATION

#### SECTION

- 20-201. Established.
- 20-202. Director of health and sanitation.
- 20-203. Powers and duties of the director.
- 20-204. Fees.
- 20-205. Fees for temporary permits.
- 20-206. Exemptions from temporary permit fees.

**20-201. Established.** In order to preserve the public health of the citizens of the city, there is hereby established a department of health and sanitation. (1981 Code, § 8-101)

**20-202. Director of health and sanitation.** (1) The department of health and sanitation shall be under the general supervision and control of a director who shall be known as the director of health and sanitation. The director shall be appointed by the mayor with approval of the board of mayor and aldermen and serve at their pleasure or until his successor is elected and qualified and shall receive such compensation as the board may fix.

(2) Wherever the words "director of health and sanitation," "health officer" or "health authority" are used in the Official Code of the City of Millington, same shall also include in its definition the Director of the Memphis and Shelby County Health Department or his authorized representative. (1981 Code, § 8-102)

**20-203. Powers and duties of the director.** The director shall have the power and it shall be his duty to enforce all the laws of the state, county, and city affecting the health of the citizens of the town. Whenever necessary to carry out his powers and duties the director may require such assistance as he needs from the police department. (1981 Code, § 8-103)

**20-204. Fees.** The following permit fees are hereby established for inspections by the department of health and sanitation:

#### Restaurants

From 1 to 25 seats	\$ 25.00
From 26 to 50 seats	40.00
From 51 to 75 seats	60.00
Over 75 seats	75.00

Grocery Stores

Under 1,200 square feet	
For the grocery store	25.00
For the meat market	10.00
With a bakery	10.00
Between 1,200 and 10,000 square feet	
For the grocery store	37.00
For the meat market	15.00
With a bakery	15.00
Between 10,000 and 20,000 square feet	
For the grocery store	75.00
For the meat market	30.00
With a bakery	30.00
Over 20,000 square feet	
For the grocery store	112.50
For the meat market	37.50
With a bakery	37.50

Other

Snack bar	25.00
Drive-in restaurant	37.00
Retail bakery	37.50
Retail meat market	37.50
Packaged goods store with coffee bar	30.00
Packaged goods store	22.50
Food distributor	37.50
Food storage warehouse	75.00
Wholesale meat plant	75.00
Food vendor	75.00
Food processing plant	150.00
Food caterer	150.00
Food salvager or food salvage distribution	150.00
Hucksters	22.50
Pedestrian vendor (per truck or vehicle)	22.50

(1981 Code, § 8-104)

**20-205. Fees for temporary permits.** Fees for temporary permits as defined in § 9-901(8)(a) shall be fifty percent (50%) of the fees as set forth in § 20-204. (1981 Code, § 8-105)

**20-206. Exemptions from temporary permit fees.** That all non-profit charitable organizations, all religious institutions, all civic organizations, and all governmental agencies be, and the same are hereby exempted from the fee for temporary food service permits. Nothing herein shall be interpreted to exempt the above-referenced organizations from any other health permit regulations for temporary or regular food service permits. (1981 Code, § 8-106)

## CHAPTER 3

### MILLINGTON MUNICIPAL AIRPORT AUTHORITY

#### SECTION

- 20-301. Definitions.
- 20-302. Creation of airport authority.
- 20-303. Powers of authority.
- 20-304. Commissioners.
- 20-305. No compensation.
- 20-306. Quorum.
- 20-307. Officers and employees of the authority.
- 20-308. General powers of the authority.
- 20-309. Eminent domain.
- 20-310. Disposal of airport property.
- 20-311. Bonds and other obligations.
- 20-312. Operation and use privileges.
- 20-313. Regulations; scope; conformity with state and federal law.
- 20-314. Federal and state aid.
- 20-315. Public purposes.
- 20-316. Exemption from taxation.
- 20-317. Authority of City of Millington.
- 20-318. Supplementary powers of authority.
- 20-319. Municipal zoning authority unaffected.
- 20-320. Joint operations authorized.
- 20-321. Agreements as to joint operations; joint board.

**20-301. Definitions.** The following words or terms whenever used or referred to in this chapter shall have the following respective meanings unless different meanings clearly appear from the context:

(1) "Air navigation facility" means any facility used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(2) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or navigation easements or rights-of-way, together with all airport buildings and facilities located thereon.

(3) "Authority" means the Millington Municipal Airport Authority created pursuant to the provisions of this chapter.

(4) "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at an airport or is otherwise hazardous to such landing or taking-off of aircraft.

(5) "Navigation easement" means any easement which shall include all or any part of the following:

(a) The right to unobstructed and unrestricted flight of aircraft, in, through and across the airspace over and above certain land, beginning at the altitude or height above the surface of the land as determined by the authority.

(b) The right to enter upon certain described land for the purpose of removing and preventing any use of the land or the construction or erection of any building, structures or facilities and the growth of any trees or objects upon the real estate, over, above and across such certain described land, other than those uses, buildings, structures, facilities, growths of trees or objects expressly excepted.

(c) The right to prevent the use of the land by any assembly of persons or the use of the land in such a manner as might attract or bring together an assembly of persons thereon.

(6) "Bonds" means any bonds, notes, interim certificates, debentures, or similar obligations issued by the authority pursuant to this chapter.

(7) "Governing body" means as to the City of Millington, the board of mayor and aldermen of the City of Millington or any successor body.

(8) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and including any trustee, receiver, assignee, or there similar representative thereof. (1981 Code, § 1-701)

**20-302. Creation of airport authority.** There is hereby created the Millington Municipal Airport Authority pursuant to the provisions of the Airport Authorities Act, Tennessee Code Annotated, § 42-3-101, et seq. (the "act"), for the purpose of constructing, owning, leasing, managing and/or operating one or more airport facilities for the City of Millington. The authority shall be a public body corporate and politic. In addition to this chapter, the authority shall operate in accordance with the provisions and requirements of the act. (1981 Code, § 1-702)

**20-303. Powers of authority.** The powers of the authority shall be vested in a board of commissioners, who shall be appointed by the board of mayor and aldermen. (1981 Code, § 1-703)

**20-304. Commissioners.** (1) Terms of commissioners; vacancies. The commissioners who are first appointed shall be designated to serve for terms of one (1), two (2), three (3), four (4) and five (5) years respectively. Thereafter,

each commissioner shall be appointed for a term of five (5) years, except that any vacancy occurring otherwise than by the expiration of a term shall be filled for the unexpired term by the board of mayor and aldermen. Each commissioner shall hold office until his or her successor has been appointed and has qualified. Certificates of the appointment and reappointment of commissioners shall be filed with the authority.

(2) Number of commissioners. From and after the date of May 18, 2009, there shall be a total of eleven (11) commissioners appointed to serve on the Millington Municipal Airport Authority. In addition to the nine (9) commissioners appointed and serving as provided in § 20-304(1) two (2) additional commissioners shall be appointed. When first appointed, the two (2) additional commissioners shall each be designated to serve for a term of five (5) years. Their service shall in all other respects be governed by § 20-304(2). (1981 Code, § 1-704, as amended by Ord. #1996-14, Dec. 1996, and Ord. #2009-7, May 2009)

**20-305. No compensation.** No commissioner shall receive compensation for services as a commissioner, but every commissioner shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of duties as a commissioner. (1981 Code, § 1-705)

**20-306. Quorum.** A majority of the commissioners shall constitute a quorum for the purpose of conducting business of the authority and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of not less than a majority of the commissioners present. (1981 Code, § 1-706)

**20-307. Officers and employees of the authority.** The commissioners shall elect from among themselves a chairman and a vice-chairman, and such other officers as they deem necessary. The authority may employ an executive director, secretary, technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, the authority may call upon the city attorney of the City of Millington or may employ its own counsel or legal staff. The authority may delegate to one or more of its agents or employees such powers and/or duties as it may deem proper. (1981 Code, § 1-707)

**20-308. General powers of the authority.** The authority shall have all the powers necessary or convenient to carry out the purposes for which it is created (excluding the power to levy and collect taxes or special assessments) including, but not limited to, the power to:

- (1) Sue and be sued;
- (2) Have a seal;



- (3) Have perpetual succession; and
- (4) Have such immunity in tort cases as do municipalities under the Municipal Airport Act, Tennessee Code Annotated, § 42-4-101, et seq.;
- (5) Execute such contracts and other instruments and take such other action as may be necessary or convenient to carry out the purposes for which it is created;
- (6) Plan, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate and protect airports and air navigation facilities, within the City of Millington, including the acquisition, construction, installation, equipment, maintenance, and operation of such airports or buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers, and the purchase and sale of supplies, goods, and commodities as are incident to the operation of its airport properties. For such purposes the authority may, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, acquire property, real or personal, or any interest therein, including navigation easements and easements in airport hazards or land outside the boundaries of an airport or airport site, as are necessary to permit the removal, elimination, obstruction-marking, or obstruction-lighting of airport hazards or to prevent the establishment of airport hazards;
- (7) Acquire by purchase, gift, devise, lease, eminent domain proceedings or otherwise, existing airports and air navigation facilities; provided, that the authority shall not acquire or take over any airport or air navigation facility owned or controlled by another authority, municipality, or public agency of this or any other state without the consent of such authority, municipality, or public agency; and
- (8) Establish or acquire and maintain airports in, over and upon any public waters of the City of Millington or any submerged lands under such public waters; and construct and maintain terminal buildings, landing floats, causeways, roadways, and bridges for approaches to or connecting with any such airport, and landing floats and breakwaters for the protection thereof. (1981 Code, § 1-708)

**20-309. Eminent domain.** In the acquisition of property by eminent domain proceedings, the authority shall proceed in the manner provided by chapter 16 of title 29, Tennessee Code Annotated, or any successor statute. For the purpose of making surveys and examinations relative to eminent domain proceedings, it shall be lawful for the authority to enter upon the land, doing no unnecessary damage. Notwithstanding the provisions of any other statute or other law, the authority may take possession of any property to be acquired by eminent domain proceedings. The authority shall not be precluded from abandoning such proceedings in any case where possession of the property has not been taken, even after a trial jury in circuit court has rendered a verdict as to damages for the property taken and at any time prior to the entry of a final decree disposing of the entire eminent domain proceedings. (1981 Code, § 1-709)

**20-310. Disposal of airport property.** Except as may be limited by the terms and conditions of any grant, loan, or agreement authorized by this chapter or the Act, the authority may, by sale, lease, or otherwise, dispose of any airport, air navigation facility or other property, or portion thereof or interest therein, acquired pursuant to this chapter. Such disposal by sale, lease, or otherwise, shall be in accordance with the laws of this state governing the disposition of other public property, except that in the case of disposal to another authority, a municipality or an agency of the state or federal government for use and operation as a public airport, the sale, lease, or other disposal may be effected in such manner and upon such terms as the commissioners of the authority may deem in the best interest of civil aviation and the City of Millington. (1981 Code, § 1-710)

**20-311. Bonds and other obligations.** (1) The authority shall have the power to borrow money for any of its corporate purposes and issue its bonds therefor, including refunding bonds, in such form and upon such terms as it may determine, payable out of any revenues of the authority, including grants or contributions from the federal government or other sources, which bonds may be sold at public sale at not less than par. Revenue bonds may be issued for the above purposes and the authority may pledge as security for such bonds all or any portion of the landing fees, concession fees, rents, charges, or any other revenues derived from the operation of the airport. Such revenue bonds shall be issued in accordance with the applicable provisions of title 9, chapter 11, Tennessee Code Annotated; provided, that any such fees, rents, or charges so pledged that are fixed and established pursuant to the provisions of a lease or contract, shall not be subject to revision or change except in such manner as is provided in such lease or contract. Any bonds of the authority issued pursuant to this chapter which are payable, as to principal and interest, solely from revenues of an airport or air navigation facility (and they shall so state on their face) shall not constitute a debt of the City of Millington, the state, or any political subdivision thereof other than the authority, and shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Neither the commissioners nor any person executing such bonds shall be liable personally thereon by reason of the issuance thereof.

(2) In case any of the commissioners or officers of the authority whose signature appears on any bonds or coupons shall cease to be such commissioners or officers after authorization but before the delivery of the bonds, the signatures shall nevertheless be valid and sufficient for all purposes, the same as if the commissioners or officers had remained in office until delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable.

(3) Any bond reciting in substance that it has been issued by the authority pursuant to the provisions of this chapter and for a purpose or purposes authorized to be accomplished by this chapter shall be conclusively

deemed, in any suit, action or proceeding involving the validity or enforceability of the bond or the security therefor, to have been issued pursuant to such provisions and for such purpose or purposes.

(4) Bonds issued by the authority pursuant to the provisions of this chapter are declared to be issued for an essential public and governmental purpose, and together with interest thereon, and income therefrom, shall be exempt from all taxes. (1981 Code, § 1-711)

**20-312. Operation and use privileges.** (1) Operation by authority.

(a) In connection with the operation of an airport or air navigation facility owned, leased or controlled by the authority, the authority may, except as may be limited by the terms and conditions of any grant, loan or agreement, enter into contracts, leases, agreements, grants or other arrangements for terms not to exceed fifty (50) years with any person or persons, provided that the public is not deprived of its rightful use thereof:

(i) Granting the privilege of using or improving the airport or air navigation facility, including buildings or structures relating thereto, or real property acquired or set aside for such purposes, or any portion or facility thereof or space therein for commercial purposes, establishing the charges, rentals or fees at a fixed or variable rate binding upon the parties thereto for the full terms of such contracts, leases, agreements, grants or other arrangements, which contracts, leases, agreements, grants or other arrangements may provide for the resolution of disputes arising thereunder or for the fixing of variable terms therein through arbitration or similar procedure;

(ii) Conferring the privilege of supplying goods, commodities, things, services or facilities at the airport or air navigation facility;

(iii) Making available services to be furnished by the authority or its agents at the airport or air navigation facility; and

(iv) Determining the charges, rentals or fees for the use of any properties under its control, and the charges for any services or accommodations, and the terms and conditions under which such properties may be used, except that any such charges, rentals and fees as may be fixed or determined by any contract, lease, agreement, grant or other arrangement of privileges, uses, services, accommodations or concessions to which the authority is a party or is the grantor, shall, if so expressly provided therein, be binding upon all parties thereto for the full terms prescribed therein, unless same is sooner modified or terminated by mutual consent of the parties thereto.

(b) In each case, the authority may establish the terms and conditions and fix the charges, rentals or fees for the privileges, uses or services or use of buildings or structures which shall be reasonable and uniform for the same class of privilege or services and shall be established with due regard to the property and improvements used and the expenses of operation to the authority; provided, that in no case shall the public be deprived of its rightful, equal and uniform use of the airport, air navigation facility, or portion or facility thereof.

(2) Other operation. Except as may be limited by the terms and conditions of any grant, loan or agreement authorized by this chapter or the act, the authority may by contract, lease, or other arrangements, upon a consideration fixed by it, grant to any qualified person for a term not to exceed fifty (50) years, the privilege of operating, as agent of the authority or otherwise, any airport owned or controlled by the authority; provided, that no person shall be granted any authority to operate an airport other than as a public airport or to enter into any contracts, leases or other arrangements in connection with the operation of the airport which the authority might not have undertaken under subsection (1) of this section. (1981 Code, § 1-712)

**20-313. Regulations; scope; conformity with state and federal law.**

The authority is authorized to adopt, amend and repeal such reasonable resolutions, rules, regulations and orders as it shall deem necessary for the management, government and use of any airport or air navigation facility owned by it or under its control. No rule, regulation, order or standard prescribed by the authority shall be inconsistent with, or contrary to, any act of the congress of the United States or any regulation promulgated or standard established pursuant thereto or be inconsistent with, or contrary to, any act of the general assembly of the State of Tennessee or any regulation promulgated or standard established pursuant thereto. The authority shall keep on file at the principal office of the authority for public inspection a copy of all its rules and regulations. (1981 Code, § 1-713)

**20-314. Federal and state aid.** Except as otherwise provided by law, the authority is authorized to accept, receive, receipt for, disburse and expend federal and state moneys and other moneys, public or private, made available by grant or loan or both, to accomplish, in whole or in part, any of the purposes for which the authority is created. All federal moneys accepted under this section shall be accepted and expended by the authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and state moneys accepted under this section shall be accepted and expended by the authority upon such terms and conditions as are prescribed by the state. (1981 Code, § 1-714)

**20-315. Public purposes.** The acquisition of any land, or interest therein, pursuant to this chapter, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation and protection of airports, air navigation facilities and other public agencies, to be severally or jointly exercised, are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All land and other property and privileges acquired and used by or on behalf of the authority or other public agency in the manner and for the purposes enumerated in this chapter shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity. (1981 Code, § 1-715)

**20-316. Exemption from taxation.** Any property in this state acquired by the authority for airport purposes pursuant to the provisions of this chapter, and any income derived by the authority from the ownership, operation or control thereof, shall be exempt from taxation to the same extent as other property used for public purposes. (1981 Code, § 1-716)

**20-317. Authority of City of Millington.** For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of an airport and air navigation facilities, and acquiring navigation easements the city may, upon such terms, with or without consideration as it may determine:

- (1) Lend or donate money to the authority.
- (2) Provide that all or a portion of the taxes or funds available or to become available to, or required by law to be used by, the city for airport purposes, be transferred or paid directly to the airport authority as such funds become available to the city.
- (3) Cause water, sewer or drainage facilities, or any other facilities which it is empowered to provide, to be furnished adjacent to or in connection with such airports or air navigation facilities.
- (4) Dedicate, sell, convey or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to the authority.
- (5) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadway's and walks from established streets or roads to such airports or air navigation facilities.
- (6) Do any and all things, whether or not specifically authorized in this section and not otherwise prohibited by law, that are necessary or convenient to aid and cooperate with the authority in the planning, undertaking, construction or operation of airports and air navigation facilities.
- (7) Enter into agreements with the authority respecting action to be taken by the city pursuant to the provisions of this section. (1981 Code, § 1-717)

**20-318. Supplementary powers of authority.** In addition to the general and special powers conferred by this chapter and the act, the authority is authorized to exercise such powers as are necessarily incidental to the exercise of such general and special powers. (1981 Code, § 1-718)

**20-319. Municipal zoning authority unaffected.** Nothing contained in this chapter shall be construed to limit any right, power or authority of the City of Millington to regulate airport hazards by zoning. (1981 Code, § 1-719)

**20-320. Joint operations authorized.** (1) All powers, privileges and authority granted by this chapter may be exercised and enjoyed by the authority jointly with any public agency of this state, and jointly with any public agency of any adjoining state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise or enjoyment. "Public agency" includes municipality, any agency of the state government and of the United States, and any municipality, political subdivision and agency of an adjoining state.

(2) Any agency of the state government, when acting jointly with the authority, may exercise and enjoy all the powers, privileges and authority conferred by this chapter upon the authority. (1981 Code, § 1-720)

**20-321. Agreements as to joint operations; joint board.** (1) The authority may enter into agreements with other public agencies for joint action pursuant to the provisions of this chapter and Tennessee Code Annotated, § 42-3-201, et seq.

(2) Each agreement shall specify its duration, the proportionate interest which each participant shall have in the property, facilities and privileges involved in the joint undertaking, the proportion of costs of operation, etc., to be borne by each participant, and such other terms as are deemed necessary or required by law.

(3) The agreement may also provide for amendments and termination; disposal of all or any of the property, facilities and privileges jointly owned prior to, or at such time as the property, facilities and privileges, or any part thereof, cease to be used for the purposes provided in this chapter, or upon termination of the agreement; the distribution of the proceeds received upon any disposal, and of any funds or other property jointly owned and undisposed of; the assumption or payment of any indebtedness arising from the joint undertaking which remains unpaid upon the disposal of all assets or upon a termination of the agreement; and such other provisions as may be necessary or convenient.

(4) The authority and any public agencies acting jointly pursuant to this chapter shall create a joint board, which shall consist of members appointed, by the governing body of each participant. The members of any such joint board representing the authority shall be appointed by the board of mayor

and aldermen from among the commissioners of the authority. (1981 Code, § 1-721)

ORDINANCE 1998-3  
ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND  
REVISION OF THE ORDINANCES OF THE CITY OF MILLINGTON, TENNESSEE

WHEREAS, some of the ordinances of the City of Millington 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 Millington, Tennessee, has caused the City's 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 "Millington Municipal Code."

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MILLINGTON, TENNESSEE, as follows:

Section 1. Ordinances codified. The ordinances of the City of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Millington 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 the City's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of the 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 where the term "it shall be a misdemeanor" or



"it shall be an offense" or "it shall be unlawful" or any similar term appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."<sup>1</sup>

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

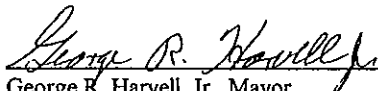
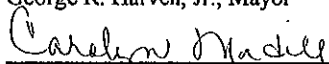
Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The Board of 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 the 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 ordinances 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 City Clerk's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect ten (10) days 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.

  
George R. Harvell, Jr., Mayor  
  
Carolyn Madill, City Clerk

<sup>1</sup> State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

Passed 1st reading, May 4, 1998.

Passed 2nd reading, May 11, 1998.

Passed 3rd reading, June 1, 1998.