

**THE
TELLICO PLAINS
MUNICIPAL
CODE**

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

May, 1993

TOWN OF TELlico PLAINS, TENNESSEE

MAYOR

Sam Stamey

ALDERMEN

Robert Hamilton
Roger Powers
Wicky Shepard
Alan Watson
Harkey Yates

RECORDER

Gary Barnes

Preface

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the town agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

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

The able assistance of Mrs. Tracy Gardner, the MTAS Sr. Word Processing Specialist who did all the typing on this project, is gratefully acknowledged.

Sid Hemsley
Sr. Legal Consultant

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

1. All ordinances shall be signed by the mayor and recorder. (Art. V, § 9; Art. IV)
2. Overturning veto of ordinances requires two-thirds vote of city council. (Art. IV)

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. TOWN COUNCIL.
2. MAYOR.
3. RECORDER.

CHAPTER 1

TOWN COUNCIL²

SECTION

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

1-101. Time and place of regular meetings. The town council shall hold regular monthly meetings at 7:00 P.M. on the 1st Thursday of each month at the Community Center.

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

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.

¹Municipal code references

Fire department: title 7.
 Utilities: titles 18 and 19.
 Zoning: title 14.

²Charter references

Election: Art. III.
 Meeting procedure: Art. IV, § 1; Art. V, §§ 7-9.
 Personnel authority: Art. III, § 1; Art. V, §§ 2-3; Art. IX, § 6.
 Powers and duties
 Enumerated: Art. V.
 General: Art. I, § 2.
 Taxing power: Art. VII.
 Terms: Art. I, § 1.

- (3) Reading of minutes of the previous meeting by the recorder, and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the town council, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment.

This order can be altered at the discretion of the mayor.

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

CHAPTER 2

MAYOR¹

SECTION

1-201. Generally supervises town's affairs.

1-202. Executes town's contracts.

1-201. Generally supervises town's affairs. The mayor shall have general supervision of all town affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities.

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the town council.

¹Charter references
Election: Art. III.
Powers and duties: Art. IV.
Veto: Art. IV, § 1; Art. V, § 8.

CHAPTER 3

RECORDER¹

SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

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

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the town council.

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the town council and shall preserve the original copy of all ordinances in a separate ordinance book.

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the town council and for the town which are not assigned by the charter, this code, or the town council to another corporate officer. The recorder shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers.

¹Charter references

Election: Art. III.

Powers and duties

Records, etc.: Art. IV, § 2.

Acting mayor: Art. IV, § 2.

Tax rolls: Art. VI, § 2.

The recorder is also a member of the town council and has the same legislative power and duties as other councilmen.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. RECREATION ADVISORY COMMISSION.

CHAPTER 1

RECREATION ADVISORY COMMISSION

SECTION

2-101. Creation.

2-102. Purpose and duties.

2-103. Membership and organization.

2-101. Creation. There is hereby created a recreation advisory commission in and for the Town of Tellico Plains. (Ord. dated Apr. 27, 1992, modified)

2-102. Purpose and duties. The recreation advisory commission shall have the following purposes and duties:

(1) To advise the town council, mayor, and recreation director on kinds of recreation programs and facilities desired by the citizens.

(2) To formulate and submit recommendations to the town council, the mayor and recreation director regarding administration and expansion of the town's recreation program.

(3) To serve as liaison for new programs between volunteer recreation workers and organizations, the mayor and recreation director. (Ord. dated Apr. 27, 1992, modified)

2-103. Membership and organization. The committee will be comprised of five members, all appointed by the mayor. The initial appointments shall be made so that the terms of office of one member shall expire in one year, the term of office of one member shall expire in two years, the term of office of one member shall expire in three years, the term of office of one member shall expire in four years, and the term of office of one member shall expire in five years; thereafter the term of the member shall expire annually. Members shall serve until their successors are appointed and qualified. Members shall serve without compensation. The commission shall have one regularly scheduled meeting each calendar month, which shall be held at such time and place as the commission shall prescribe. The membership shall, from among its members, elect a chairman and secretary for one year terms. The mayor and recreation

director shall be ex officio members of the commission and shall meet with the commission at its regular meetings. (Ord. dated Apr. 27, 1992, modified)

Revisions by Mike Tallent 2/16/94 by Bobbie.

TITLE 3

MUNICIPAL COURT¹

CHAPTER

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

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge.

3-101. City judge. (1) Appointment and term. The city judge designated by the charter to handle judicial matters within the town shall be appointed by, and serve at the pleasure of, the town council.

(2) Qualifications. The city judge shall be licensed by the State of Tennessee to practice law.

(3) Judge pro tem. During the absence of the city judge from his or her duties for any reason or at any time the office of the city judge is vacant, the town council may appoint a city judge pro tem to serve until the city judge returns to his or her duties or the office of city judge is no longer vacant. The city judge pro tem shall have all the qualifications required, and powers, of the city judge.

¹Charter references

Appointment: Art. IV, § 4.

Powers and duties: Art. IV, § 4.

CHAPTER 2

COURT ADMINISTRATION¹

SECTION

3-201. Maintenance of docket.

3-202. Imposition of fines, penalties, and costs.

3-203. Disposition and report of fines, penalties, and costs.

3-204. Disturbance of proceedings.

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

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

In all cases heard or determined by him, the city judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions² for similar work in state cases, and shall add thereto one dollar (\$1.00) tax on the same.³

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the town. At the end of each month he shall submit to the town council a report accounting for the collection or noncollection of all fines, penalties, and costs imposed by the court during the current month and to date for the current fiscal year.

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

¹State law reference

Tennessee Code Annotated, section 8-21-401.

²Charter reference: Art. IV, § 4.

³Charter reference: Art. IV, § 4(e).

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants.¹ The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances.

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

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

¹State law reference

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

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

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

3-401. Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, the offender, in lieu of remaining in jail pending disposition of his or her case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the town court clerk, or in the absence of the town court clerk, with the ranking police officer on duty at the time, provided such alleged offender is not under the influence of alcohol or drugs.

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

3-403. Bond amounts, conditions, and forms.² An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in such sum as the city judge shall prescribe, not to exceed the sum of two hundred and fifty dollars (\$250.00), and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property within the county. No other type bond shall be acceptable.

¹State law reference

Tennessee Code Annotated, section 27-5-101.
Charter reference: Art. IV, § 4(b).

²Charter reference: Art. IV, § 4(b).

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. WORK, VACATION AND SICK LEAVE, AND HOLIDAY REGULATIONS.
2. PERSONNEL REGULATIONS.

CHAPTER 1

WORK, VACATION AND SICK LEAVE, AND HOLIDAY
REGULATIONS

SECTION

- 4-101. Applicability of chapter.
- 4-102. Work attendance.
- 4-103. Holidays.
- 4-104. Vacation leave.
- 4-105. Sick leave.
- 4-106. Absence without leave.
- 4-107. Absence without pay.
- 4-108. Leave without pay.

4-101. Applicability of chapter. This chapter shall apply to all full-time municipal officers and employees, except those operating under the jurisdiction of a school, utility or other separate board or commission. Full-time employees are defined as those employees who work forty (40) or more hours a week.

4-102. Work attendance. All full-time employees of the town shall be in attendance at their regular work and at their regular place of work as may be designated by the department head under whose supervision such employees shall work. The head of every town department shall keep a daily attendance record of the employees working under such supervisor and shall report the same to the mayor.

4-103. Holidays. (1) Except and in addition to such other holidays as may be from time-to-time declared by the town council, the following days shall be official holidays for employees of the Town of Tellico Plains:

Holiday NameHoliday Date

New Year's Day

January 1st of each year

Memorial Day	Last Monday in May of each year
Independence Day	July 4th of each year
Labor Day	First Monday in September of each year
Thanksgiving Day	Fourth Thursday in November of each year
Christmas Day	December 25th of each year

(2) Generally, when a holiday falls on a Saturday, or on a Sunday, the following Monday shall be observed as the holiday. However, the mayor shall have the discretion to designate the date of the holiday.

(3) All full-time employees of the town shall be compensated for any holiday granted in this chapter or otherwise designated by the town council by receiving eight (8) hours off with pay on the date of the holiday. However, in the interest of continuing essential municipal services, any town employee may be required to work on any holiday. Working on any holiday is a condition of employment for all town employees. Employees who are required to work on any holiday shall be paid eight (8) hours holiday pay plus their regular pay for each hour they work on that holiday. Employees who are already scheduled to be off from work on the holiday shall also receive eight (8) hours of holiday pay.

(4) No employee shall be authorized to work on a holiday without the prior command or approval of the head of the department for whom the employee works. However, the town council may from time to time prescribe such other rules, regulations and limitations on overtime work as it desires.

(5) Any employee who is absent without leave on any working day immediately preceding or immediately following any holiday shall not be entitled to be paid for such holiday.

4-104. Vacation leave. (1) All regular and full-time employees of the town who have been employed by the town for one full year of continuous service shall be allowed vacation leave time with pay according to the following schedule:

<u>Years of Service</u>	<u>Annual Vacation Leave Time</u>
1 year	5 working days
5 years and over	10 working days

For vacation leave purposes the term "working day" as it applies herein shall be computed on an eight (8) hour basis.

(2) Vacation leave compensation shall be computed at the employee's regular straight time pay rate in effect as of the date that the vacation leave time is earned.

(3) The date of service to be used in determining vacation leave time accrual rate is the beginning date of the employee's current period of continuous service or the date on which the employee was initially employed or appointed, whichever is more recent.

(4) An employee shall not be eligible to take vacation leave until he or she has had one (1) year continuous employment.

(5) Vacation leave may not be taken before it is earned.

(6) Temporary, casual or part-time employees are not eligible for accrual of vacation leave.

(7) For vacation purposes, any reinstated employee shall be considered as a new employee regardless of the reason for separation.

(8) Earned vacation leave may be taken in whole or in part throughout the year at such times as may be approved by the head of the department for which such employee works. No less than one (1) day may be taken at any one time.

(9) Vacation not taken during the year in which it is earned shall be lost by the employee.

(10) Any official holiday falling within a period of vacation leave shall be charged as holiday leave rather than vacation leave.

4-105. Sick leave. (1) All full-time employees of the town shall be allowed to accumulate sick leave with pay at the rate of one-half ($\frac{1}{2}$) working day for each full calendar month of service completed up to an unused maximum of eight (8) working days in any calendar year. Employees shall be able to carry forward two (2) working days from one calendar year to the next. Sick leave shall be considered a benefit and privilege and not a right for the employees to use at his or her discretion. Employees shall, therefore, utilize their accumulated sick leave allowance for absences due to personal illness or physical incapacity, personal illness or physical incapacity within the immediate family of the employee (as defined in paragraph 3 below), enforced quarantine of the employee in accordance with community health regulations, or so as to keep an appointment with a licensed medical doctor, dentist or other recognized health care practitioner.

(2) Any employee who takes three (3) or more consecutive days of sick leave shall be required to provide a health care practitioner's certificate or other satisfactory evidence supporting the absence before it may be properly chargeable as sick leave.

(3) For sick leave purposes the term "working day" as it applies in this section shall be computed on an eight (8) hour basis. The term "immediate family" shall be defined as spouse, children, parents, brothers and sisters, and grandparents, both of the employee and spouse of the employee.

(4) Sick leave compensation shall be figured at the employee's straight time pay rate in effect at the date it is used by the employee.

(5) The date of service to be used in determining sick leave time accrual rate is the beginning date of the employee's current period of continuous service or the date on which the employee was initially employed or appointed, whichever is more recent.

(6) Sick leave shall begin to accrue on the first day of the month next following the first full calendar month of employment.

(7) Temporary, casual or part-time employees are not eligible for accrual of sick leave.

(8) For sick leave purposes any reinstated employee shall be considered as a new employee regardless of the reason for his or her separation.

(9) Any employee who abuses these sick leave provisions or who deliberately makes or cause to be made any false or misleading statement or claim concerning the same, shall be subject to the loss of any such benefits, dismissal from his or her employment with the town or other disciplinary action.

(10) Any employee of the town who is injured when engaging in his employment for the town may be carried on sick leave for any accumulated sick leave that he or she has to his or her credit, but in no case shall any employee be allowed to receive sick leave pay while drawing any workers compensation or other disability payments resulting from any benefit provided by the town.

4-106. Absence without leave. An absence without leave is an absence from duty which was not authorized or approved and for which either a request for leave was not made by the employee, or when made such request was denied. Under such circumstances any employee may be subject to such disciplinary action, including termination from employment with the town, as the town council deems necessary or appropriate.

4-107. Absence without pay. An absence without pay is an absence which may or may not have been known and which has resulted from suspension, abandonment of position, or leave without pay granted by the town. The heads of all departments shall be responsible for maintaining accurate records of any employee who is absent from duty for any reason and shall promptly report the same to the mayor.

4-108. Leave without pay. A regular or part-time employee who is in good standing may be granted a leave without pay for a period not to exceed ninety (90) calendar days in any one calendar year upon the approval of the town council.

CHAPTER 2

PERSONNEL REGULATIONS

SECTION

- 4-201. Applicability of chapter.
- 4-202. Acceptance of gratuities.
- 4-203. Outside employment.
- 4-204. Political activity restricted.
- 4-205. Use of municipal time, facilities, etc.
- 4-206. Use of position.
- 4-207. Strikes.

4-201. Applicability of chapter. This chapter shall apply to all full-time town officers and employees except those operating under the jurisdiction of a school, utility, or other separate board or commission.

4-202. Acceptance of gratuities. No town officer or employee shall accept any money or other consideration or favor from anyone other than the town for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to town business.

4-203. Outside employment. No full-time officer or employee of the town shall continue any outside employment if the work interferes with the satisfactory performance of the officer's or employee's duties. In addition, no such employee shall accept any outside employment if the work is incompatible with his town employment, or is likely to cast discredit upon or create embarrassment for the town.

4-204. Political activity restricted. The following prohibitions and restrictions on political activities shall apply to all town officers and employees, except for elected officers:

(1) In elections for municipal and county offices. No town officer or employee, whether on or off duty, whether in or out of uniform, and whether on or off town property, shall at any time or any place:

(a) Become a candidate for, or campaign for, an elective town or county office. This prohibition shall not apply to the office of county school board member or county commissioner.

(b) Directly or indirectly solicit, receive, collect, handle, disburse or account for assessments, contributions or other funds for a candidate for town or county office.

(c) Organize, sell tickets to, promote or actively participate in a fund-raising activity of a candidate for town or county office.

(d) Take an active part in managing the political campaign of a candidate for town or county office.

(e) Solicit votes in support of or in opposition to a candidate for town or county office.

(f) Act as a recorder, watcher, challenger or similar officer at the polls on behalf of a candidate for town or county office.

(g) Drive voters to the polls on behalf of a candidate for town or county office.

(h) Endorse or oppose a candidate for town or county office in a political advertisement, broadcast, campaign literature or similar material.

(i) Address a rally or similar gathering of the supporters or opponents of a candidate for town or county office.

(j) Initiate or circulate a nominating petition for a candidate for town or county office.

(k) Wear campaign buttons, pins, hats or any other similar attachment, or distribute campaign literature in support or opposition to a candidate for town or county office.

(2) In all other elections for public office. No town officer or employee, whether on or off duty, whether in or out of uniform, and whether on or off town property, shall at any time or any place

(a) Become a candidate for, or campaign for, an elective public office.

(b) Take an active part in managing the political campaign of a candidate for public office.

(c) Directly or indirectly solicit, receive or collect contributions or other funds for a candidate for public office.

(d) Sell tickets to a fund-raising activity of a candidate for public office.

(e) Engage in any of the other political activities enumerated in paragraph (1) above except while they are off duty and otherwise on their own time, and while they are not in a town uniform, and while they are in places other than on town property.

Leaves of absence will not be granted to town officers or employees to engage in any of the political activities enumerated above.

Nothing in this section is intended to prohibit any town officer or employee from privately expressing his or her political views or from casting his or her vote in all elections.

The prohibitions of this section shall not apply to city law enforcement officers when they are out of uniform and off duty.¹

4-205. Use of municipal time, facilities, etc. No town officer or employee shall use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself or any other private person or group.

4-206. Use of position. No town officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the town, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others.

4-207. Strikes. No town officer or employee shall participate in any strike against the town.

¹State law reference

Tennessee Code Annotated, § 38-8-351 provides that police officers have broader rights to participate in political activities than those provided for under section 4-204.

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

1. REAL AND PERSONAL PROPERTY TAXES.
2. WHOLESALE BEER TAX.
3. PRIVILEGE TAXES.

CHAPTER 1

REAL AND PERSONAL PROPERTY TAXES

SECTION

- 5-101. When due and payable.
5-102. When delinquent; penalty and interest.

5-101. When due and payable.¹ Taxes levied by the town against real and personal property shall become due and payable annually on the first day of November of the year for which levied.²

5-102. When delinquent; penalty and interest.³ All real property taxes shall become delinquent on and after the first day of March next after they

¹State law reference

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

²Charter reference: Art. VI, § 2 establishes a tax due date of the first day of November.

³State law reference

Tennessee Code Annotated, section 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.

become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.¹

¹Charter and state law references

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

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

CHAPTER 2

WHOLESALE BEER TAX

SECTION

5-201. To be collected.

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

¹State law reference

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

Municipal code reference

Alcohol and beer regulations: title 8.

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.

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 payment of the appropriate privilege tax. Violations of this section shall be punished under the general penalty provisions of this code of ordinances.

TITLE 6

LAW ENFORCEMENT¹

CHAPTER

1. ARREST PROCEDURES.
2. CITATIONS, WARRANTS, AND SUMMONSES.

CHAPTER 1

ARREST PROCEDURES

SECTION

6-101. When policemen to make arrests.

6-102. Disposition of persons arrested.

6-101. When policemen to make arrests.² 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.

6-102. Disposition of persons arrested. (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other town ordinance, shall be brought before the town court. However, if the town court is not in session, the arrested person shall be allowed to post bond with the town court clerk, or, if the town court clerk is not available, with the ranking police officer on duty. If the arrested person fails or refuses to post bond, he shall be confined pending his release by the city judge. In addition, if the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the

¹Municipal code reference

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.

²Municipal code reference

Issuance of citation in lieu of arrest in traffic cases: title 15, chapter 7.

consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender.

CHAPTER 2

CITATIONS, WARRANTS, AND SUMMONSES

SECTION

6-201. Summonses in lieu of arrest.

6-201. Summonses in lieu of arrest. Pursuant to Tennessee Code Annotated, section 7-63-201 et seq., which authorizes the town council to designate certain town enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board designates the mayor to issue ordinance summonses in those areas. The mayor may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him.

The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the mayor in whose presence the offense occurred may (1) have a summons issued by the clerk of the city court, or (2) 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 for the violation, or arrest the offender for failure to sign the citation in lieu of arrest.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued.

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. VOLUNTEER FIRE DEPARTMENT.
2. FIRE SERVICE OUTSIDE TOWN LIMITS.

CHAPTER 1

VOLUNTEER FIRE DEPARTMENT²

SECTION

- 7-101. Establishment, equipment, and membership.
- 7-102. Objectives.
- 7-103. Organization, rules, and regulations.
- 7-104. Records and reports.
- 7-105. Tenure and compensation of members.
- 7-106. Chief responsible for training and maintenance.
- 7-107. Chief to be assistant to state officer.

7-101. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations of the town council. Any funds raised by the volunteer fire department, or by any individual or group of volunteer firemen in the name of the volunteer fire department, and any gifts to the volunteer fire department shall be turned over to and become the property of, the town and the town shall use such funds in the equipping of the volunteer fire department. All other apparatus, equipment, and supplies of the volunteer fire department shall be purchased by or through the town and shall be and remain the property of the town. The volunteer fire department shall be composed of a chief appointed by the town council, and the fire chief shall appoint such number of subordinate officers and firemen as the council shall deem necessary.

7-102. Objectives. The volunteer fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.

¹Municipal code reference

Building, utility and housing codes: title 12.

²Municipal code reference

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

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

7-103. Organization, rules, and regulations. The chief of the volunteer fire department shall set up the organization of the department, make definite assignments to individuals, and formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the volunteer fire department, under such rules and regulations as the town council may prescribe.

7-104. Records and reports. The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports on those matters to the mayor or to the town council as they may require.

7-105. Tenure and compensation of members. The fire chief shall have the authority to suspend or discharge any other member of the volunteer fire department when he deems such action to be necessary for the good of the department. The fire chief may be suspended for up to thirty (30) days by the mayor, but may be dismissed only by the town council.

All personnel of the volunteer fire department shall receive such compensation for their services as the town council may from time to time prescribe.

7-106. Chief responsible for training and maintenance. The chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the town council.

7-107. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, section 68-17-108, the fire chief is designated as an assistant to the state commissioner of insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 17, and shall be subject to the directions of the commissioner in the execution of the provisions thereof.

CHAPTER 2

FIRE SERVICE OUTSIDE TOWN LIMITS

SECTION

7-201. Restrictions on fire service outside town limits.

7-201. Restrictions on fire service outside town limits. No personnel or equipment of the fire department shall be used for fighting any fire outside the town limits unless the fire is on town property or, in the opinion of the fire chief, is in such hazardous proximity to property owned or located within the town as to endanger the town property, or unless the town council has developed policies for providing emergency services outside of the town limits or entered into a contract or mutual aid agreement pursuant to the authority of:

(1) The Local Government Emergency Assistance Act of 1987, as amended, codified in Tennessee Code Annotated, section 58-2-601 et seq.¹

¹Charter and state law references

Tennessee Code Annotated, Section 58-2-601 et seq., as amended by Public Acts 1988, Ch. 499, authorizes any municipality or other local governmental entity to go outside of its boundaries in response to a request for emergency assistance by another local government. It does not create a duty to respond to or to stay at the scene of an emergency outside its jurisdiction.

This statute, as amended, does not require written agreements between the local governments, but authorizes them to develop policies and procedures for requesting and responding to requests for emergency assistance, including provisions for compensation for service rendered.

The statute specifies which municipal officers may request and respond to requests for emergency assistance and provides for the appointment by municipal governing bodies of additional municipal officers with the same authority.

The statute provides that the senior officer of the requesting party will be in command at the scene of the emergency.

The statute outlines the liabilities of the requesting and responding governments as follows: (1) Neither the responding party nor its employees shall be liable for any property damage or bodily injury at

(continued...)

- (2) Tennessee Code Annotated, section 12-9-101 et seq.¹
- (3) Tennessee Code Annotated, section 6-54-601.²

(...continued)

the actual scene of any emergency due to actions performed in responding to a request for emergency assistance; (2) The requesting party is not liable for damages to the equipment and personnel of the responding party in response to the request for emergency assistance; and (3) Neither the requesting party nor its employees is liable for damages caused by the negligence of the personnel of the responding party while enroute to or from the scene of the emergency.

¹State law reference

Tennessee Code Annotated, section 12-9-101, et seq. is the Interlocal Cooperation Act which authorizes municipalities and other governments to enter into mutual aid agreements of various kinds.

²State law reference

Tennessee Code Annotated, section 6-54-601 authorizes municipalities (1) To enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with fire fighting assistance. (2) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance. (3) Provide fire protection outside their town limits to either citizens on an individual contractual basis, or to citizens in an area without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws² and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within this city. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight.

¹Municipal code references

Driving under the influence: section 15-104.

Minors in beer places, public drunkenness, etc.: title 11, chapter 2.

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2

BEER¹

SECTION

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

8-201. Beer board established. There is hereby established a beer board to be composed of the town council. The mayor shall be the chairman of the beer board.

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the town hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place.

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record

¹Municipal code references

Public drunkenness, minors in beer places, etc.: title 11, chapter 2.

Tax provisions: title 5.

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).

shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

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

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

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

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

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the Town of Tellico Plains, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board.

8-210. Classes of consumption permits. Permits issued by the beer board shall consist of one class:

Off Premises Permit. An off premises permit shall be issued for the consumption of beer only off the premises. To qualify for an off premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) be a grocery store or a convenience type market; and
- (b) in either case, be primarily engaged in the sale of grocery, personal, and home care and cleaning articles, but may also sell gasoline; and
- (c) have been in continuous operation for a period of six (6) months.

In addition, the monthly beer sales of any establishment which holds an off premises permit shall not exceed fifty percent (50%) of the gross sales of the establishment. Any establishment which for two consecutive months or for three months in any calendar year has beer sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked.

8-211. Limitation on number of permits and location. The total number of permits shall be limited to four (4). Permit location shall be limited to property bordering Bank Street from Mecca Pike to State Hwy. 165 and property bordering State Highway within the corporate limits.

8-212. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with hospitals, schools, or churches, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within five hundred (500) feet of any hospital, school, or church. The distance shall be measured in a straight line¹ from the nearest point on the property line upon which sits the building from which the

¹State law reference

See Watkins v. Naifeh, 625 S. W. 2d 104 (1982) and other cases cited therein which establish the straight line method of measurement.

beer will be sold, manufactured or stored to the nearest point on the property line of the hospital, school, or church.

8-213. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

8-214. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

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

(2) Make or allow any sale of beer between the hours of 12:00 Midnight and 6:00 A.M. during any night of the week; at any time on Sunday.

(3) Allow any loud, unusual, or obnoxious noises to emanate from his premises.

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

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

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

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

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

(9) Allow gambling on his premises.

(10) Allow dancing on his premises.

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

8-215. Revocation of beer permits. The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board.

8-216. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed

\$1,000 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. CABLE TELEVISION.
3. POOL ROOMS.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.²

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers, street barkers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.
- 9-110. Violation and penalty.

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

(1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the town, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

²Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: section 11-801.

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 town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

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

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

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

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

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

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

9-102. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold.

9-103. Permit required. No person, firm or corporation 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 town unless the same has obtained a permit from the town in accordance with the provisions of this chapter.

¹State law reference

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

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

9-104. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the town recorder by each applicant for a permit as a peddler, transient 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 and permanent address of the business or organization the applicant represents.

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

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

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

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

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

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

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

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

9-105. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

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

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

(3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind. Charitable solicitors may operate a "road block" after receiving approval from the Police Department.

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

noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the town.

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

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

9-107. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.

9-108. Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the town recorder for any of the following causes:

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

(b) Any violation of this chapter.

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

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the town.

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

9-110. Violation and penalty. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances.

CHAPTER 2

CABLE TELEVISION

SECTION

9-201. To be furnished under franchise.

9-201. To be furnished under franchise. Cable television shall be furnished to the Town of Tellico Plains and its inhabitants under franchise granted to Volunteer Cable Television Company by the town council of the Town of Tellico Plains, Tennessee. The rights, powers, duties and obligations of the Town of Tellico Plains and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see ordinance no. ____ dated _____ in the office of the town recorder.

CHAPTER 3

POOL ROOMS

SECTION

9-301. Prohibited; exceptions.

9-302. Hours of operation.

9-303. Violation and penalty.

9-301. Prohibited; exceptions. It shall be unlawful for any person, corporation, partnership or other legal entity to operate within the city limits of the City of Tellico Plains, Tennessee, a pool hall, pool room or recreation room or business wherein pool tables are located, except as specifically authorized herein.

9-302. Hours of operation. A pool hall, pool room or recreation room of business wherein pool tables are located may operate Monday - Thursday between the hours of 8 a.m. and 10 p.m. and on Friday - Saturday between the hours of 8 a.m. and 11 p.m.

9-303. Violation and penalty. Any person, corporation, partnership or other legal entity found to be in violation of the provisions of this ordinance shall be subject to a fine of \$50.00 for each violation and each day in which a violation occurs shall be considered a separate violation for the purpose of this ordinance.

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL.
2. DOGS.

CHAPTER 1

IN GENERAL

SECTION

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

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, 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.

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

10-102. Keeping near a residence or business restricted. Swine are prohibited within the corporate limits.

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.

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.

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.

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl.

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 any police officer or other properly designated officer or official and confined in a pound provided or designated by the town council. 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 town council.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the town council, to cover the costs of impoundment and maintenance.

CHAPTER 2

DOGS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Destruction of vicious or infected dogs running at large.

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

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

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits.

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons.

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood.

¹State law reference

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

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid.

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the town council. If the dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the town council, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and has a tag evidencing such vaccination placed on its collar.

10-208. Destruction of vicious or infected dogs running at large. When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer.¹

¹State law reference

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

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

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

CHAPTER 1

ALCOHOL²

SECTION

- 11-101. Drinking alcoholic beverages in public, etc.
11-102. Minors in beer places.

11-101. Drinking alcoholic beverages in public, etc. It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place.

11-102. Minors in beer places. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption.

¹Municipal code references

Animal control: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

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

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Disturbing the peace.

11-202. Anti-noise regulations.

11-201. 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.

11-202. 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 person 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, etc. Yelling, shouting, 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 town authorities.

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

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

(j) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

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

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

(a) Town vehicles. Any vehicle of the town 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 town, 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 town council. Hours for the use of an amplified 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.

CHAPTER 3

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-301. Escape from custody or confinement.

11-302. Impersonating a government officer or employee.

11-303. False emergency alarms.

11-301. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the town 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.

11-302. Impersonating a government officer or employee. No person other than an official police officer of the town 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 town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee.

11-303. False emergency alarms. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act.

CHAPTER 4

FIREARMS, WEAPONS AND MISSILES

SECTION

11-401. Air rifles, etc.

11-402. Throwing missiles.

11-403. Discharge of firearms.

11-401. Air rifles, etc. It shall be unlawful for any person in the town to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method.

11-402. Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person.

11-403. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits.

CHAPTER 5

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

- 11-501. Trespassing.
 11-502. Malicious mischief.
 11-503. Interference with traffic.
 11-504. Rollerskating and skateboarding prohibited.
 11-504. Limitations on riding "toy vehicles."

11-501. Trespassing.¹ (1) On premises open to the public.

(a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

(b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.

(2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.

(3) Vacant buildings. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(4) Lots and buildings in general. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail

¹State law reference

Subsections (1) through (4) of this section were taken substantially from Tennessee Code Annotated, section 39-14-405.

to promptly leave the private premises of any person who requests or directs him to leave.¹

11-502. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him.

11-503. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon.

11-504. Limitations on riding "toy vehicles." (1) Definitions: "Toy Vehicles" are coasters, roller skates, scooters, skateboards, go carts, and other similar vehicles designed for use as a toy or sport activity rather than for useful transportation.

(2) Negligent Operation. It is unlawful for any person to operate a toy vehicle in a negligent manner upon any roadway, sidewalk or publicly owned parking lot. For the purpose of this section, "to operate in a negligent manner" means the operation of a toy vehicle in such a manner as to endanger or be likely to endanger any persons or property.

(3) Business Area - Use Prohibited. It is unlawful for any person to operate a toy vehicle upon any roadway, sidewalk, or publicly owned parking lot in any area of the city used for business purposes.

(4) Parent Responsibility. It is unlawful for any parent, guardian or other person having control of a minor child to allow said minor to operate a toy vehicle in violation of this section.

¹Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

CHAPTER 6

MISCELLANEOUS

SECTION

11-601. Abandoned refrigerators, etc.

11-602. Caves, wells, cisterns, etc.

11-603. Posting notices, etc.

11-601. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door or otherwise sealing the door in such a manner that it cannot be opened by any child.

11-602. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard.

11-603. Posting notices, etc. No person shall paint, make, or fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property unless legally authorized to do so.

TITLE 12

BUILDING, UTILITY, ETC. CODES

(RESERVED FOR FUTURE USE)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Violations and penalty.

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the town recorder to cut such vegetation when it has reached a height of over one (1) foot.

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: section 16-107.

Toilet facilities in beer places: section 8-213(12).

Wastewater treatment: title 18, chapter 2.

13-104. Overgrown and dirty lots.¹ (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, section 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Limitation on application. The provisions of this section shall not apply to any parcel of property upon which an owner-occupied residence is located.

(3) Designation of public officer or department. The mayor and/or the police department shall enforce the provisions of this section.

(4) Notice to property owner. It shall be the duty of the department or person designated by the town council to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of section 13-104 of the Tellico Plains Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, section 6-54-113, and that the property of such owner may be cleaned-up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

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

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

¹Municipal code reference

Section 13-103 applies to cases where the town wishes to prosecute the offender in town court. Section 13-104 can be used when the town seeks to clean up the lot at the owner's expense and place a lien against the property for the cost of the clean-up but not to prosecute the owner in town court.

This title, chapter 2.

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

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the town council to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in Monroe County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These cost shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the town council. The appeal shall be filed with the town recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of town council under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify

the town recorder and dispose of such animal in such manner as the town recorder shall direct.

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity.

13-107. Violations and penalty. Violations of this chapter shall be punished in accordance with the general penalty provision of this municipal code of ordinances except that violations of section 13-104 shall be handled in accordance with the provisions of that section.

CHAPTER 2

SLUM CLEARANCE¹

SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. Mayor designated to act.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.

13-201. Findings of board. Pursuant to Tennessee Code Annotated, section 13-21-101 et seq., the town council finds that there exists in the town 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 town.

13-202. Definitions. (1) "Municipality" shall mean the Town of Tellico Plains, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(2) "Governing body" shall mean the town council charged with governing the town.

(3) "Public officer" shall mean the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, section 13-21-101 et seq.

(4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the town or

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

state relating to health, fire, building regulations, or other activities concerning structures in the town.

(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) "Structures" shall mean any building or structure, or part thereof, used for human occupation and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

13-203. Mayor designated to act. The mayor is designated as the public officer of the town, who is to exercise the powers prescribed by this chapter.

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupancy or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupancy or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order: (a) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy or use; or (b) if the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful."

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished.

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall, upon the filing of the notice with the office of the register of deeds of Monroe county, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the (city recorder or secretary) 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. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Monroe 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 provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the Town of Tellico Plains to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of Tellico Plains; such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate

ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness.

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Monroe County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such suit in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

13-212. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

- (1) To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

CHAPTER 3

JUNKYARDS

SECTION

13-301. Junkyards.

13-302. Abandoned and discarded vehicles.

13-301. Junkyards.¹ All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.

13-302. Abandoned and discarded vehicles. (1) Definitions. The following definitions shall apply in the interpretation and enforcement of this code section:

(a) "Property" shall mean any property within the town which is not a street, highway or public right-of-way.

(b) "Vehicle" shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery, and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, buggies and wagons.

(c) "Discarded vehicle" shall mean any vehicle or part thereof which for more than thirty (30) days is inoperative whether or not it has lawfully affixed thereto an unexpired license plate or plates and which is wrecked, dismantled, partially dismantled or discarded;

(d) "Abandoned vehicle" shall mean any vehicle or part thereof which is left unattended on public or private property for more than 30

¹State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

days, or a vehicle that has remained illegally on public property for a period of more than forty-eight (48) hours, or a vehicle that has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours.

(2) Abandoning prohibited. No person shall abandon any vehicle within the town, and no person shall leave any vehicle at any place within the town, for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

(3) Leaving non-operating junked vehicle on street prohibited. No person shall leave any partially dismantled, non-operating, wrecked, or junked vehicle on any street, alley or highway within the town, or on any public right-of-way.

(4) Location or presence of discarded or abandoned vehicles within town deemed public nuisance; exceptions. The location or presence of any discarded or abandoned vehicle or discarded or abandoned vehicles on any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the Town of Tellico Plains shall be deemed a public nuisance and it shall be unlawful for any person or persons to cause or maintain such public nuisance by wrecking, dismantling, rendering inoperable, abandoning or discarding his or their vehicle or vehicles on the property of another or to suffer, permit or allow the same to be placed, located, maintained or exist upon his or their own real property; provided that this section shall not apply to (1) a vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; (2) a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer, licensed automobile graveyard or other licensed business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise; or (3) a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the town or other governmental authority.

(5) Abatement or removal order; contents; service. (a) Whenever such public nuisance exists in the town in violation hereof, the chief of the police department or any member of his department designated by him, who shall administer this chapter, shall give not less than ten (10) days' written notice to the owner of the real property and/or the occupant, if any, of the premises whereon such public nuisance exists to abate or remove the same, stating the nature of the public nuisance of private property and that it must be removed and abated within ten (10) days and further that a request for a hearing must be made before expiration of said ten (10) day period by the aggrieved person, such notice to be either hand delivered or mailed, by certified mail, with a five (5) day return receipt requested, to the owner or the occupant of the private premises whereupon such public nuisance exists. If the notice is

returned undelivered by the United States Post Office, official action to abate said nuisance shall be continued to a date not less than ten (10) days from the date of such return.

(b) A public hearing prior to the removal of the vehicle or part thereof as a public nuisance shall be held before the governing body of the town, or other officials of the town as designated by the governing body, when such a hearing is requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way on which said vehicle is located, within ten (10) days after service of notice to abate the nuisance. During such hearing, evidence will be considered to determine whether a public nuisance exists in violation of this chapter and an order or resolution will be issued if a nuisance is found to exist providing for abatement of such nuisance by the town or the owner or occupant of the premises. Any resolution or order requiring the removal of a vehicle or part thereof shall include a description of the vehicle, and the correct identification number and license number of the vehicle, if available at the site.

(6) Removal with permission of owner or occupant. Within ten (10) after receipt of notice from the chief of police, or any member of his department designated by him, to abate the nuisance, as herein provided, the owner or occupant of the premises may give his or her written permission to the chief of police, or any member of his department designated by him, for removal of a discarded or abandoned vehicle from the premises at the expense of the owner and/or occupant. The giving of such permission shall be considered compliance with the provisions of section 5 above.

(7) Removal without permission of owner or occupant. (a) If such public nuisance is not abated by any person in charge or control of any property within the town, whether as owner, tenant, occupant, lessee or otherwise, and a discarded vehicle remains upon public or private property following the ten (10) days' notice period specified within section 5, and if no hearing is requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way on which said vehicle is located, official action shall be taken by the town to abate such nuisance at the expense of the person in charge or control of the property, if any.

(b) Prior to entry upon private property for the purposes specified in this chapter, the chief of police, or any member of his department designated by him, shall apply to the Tellico Plains Municipal Court or any court of competent jurisdiction for any warrant or order necessary for the entry onto private property to examine vehicles or parts thereof, obtain information as to the identity of vehicles, and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this chapter. The Tellico Plains Municipal Court

shall have the authority to issue all orders and warrants necessary to enforce this chapter.

(c) The chief of police, or any member of his department designated by him, may enter upon private property for the purposes specified in this chapter to examine vehicles or parts thereof, obtain information as to the identity of vehicles, and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this chapter. Any such discarded vehicle shall be impounded at the cost of the owner until lawfully claimed or disposed of in accordance with directions of the chief of police of the town.

(8) Application. Nothing in this chapter shall affect the power of the Town of Tellico Plains to permit immediate removal of a vehicle left on public property which is abandoned and constitutes an obstruction to traffic.

(9) Collection of expense of abatement: lien. When any nuisance has been abated as provided in this chapter, the chief of police, or his duly authorized representative, shall certify the amount of the expense incurred in abating same to the city council who shall direct the city attorney to bring suit by attachment or otherwise to collect the same and the town shall have a lien on the property to secure the amount expended by it in abating such nuisance which shall be superior to all other contractual liens.

(10) Violations, penalty. Any person violating any of the provisions of this section shall be punished by a fine of not more than five hundred dollars (\$500.00) for each offense and each day of continuing violation shall constitute a separate offense.

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. FLOOD DAMAGE PREVENTION ORDINANCE.
2. SIGN ORDINANCE.

CHAPTER 1

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

- 14-101. Definitions.
- 14-102. General provisions.
- 14-103. Administration.
- 14-104. Provisions for flood hazard reduction.
- 14-105. Variance procedures.

14-101. Definitions. Unless specifically defined below, words or 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.

(1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

- (a) Accessory structures shall not be used for human habitation.
- (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 which may result in damage to other structures.
- (e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

(2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

(4) "Appeal" means a request for a review of the building official's interpretation of any provision of this chapter or a request for a variance.

(5) "Area of shallow flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(6) "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.

(7) "Area of special flood hazard" is the land in the floodplain within a community subject to a one percent 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.

(8) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

(9) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

(10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(11) "Building" for purposes of this section, means any structure built for support, shelter, or enclosure for any occupancy or storage. (See "structure").

(12) "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, excavation or drilling operations, or storage of equipment or materials.

(13) "Elevated building" means a non-basement building

(a) Built to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers),

(b) And adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

(14) "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.

(15) "Erosion" means the process of the gradual wearing away of land masses. This peril is not per se covered under the program.

(16) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

(17) "Existing construction" any structure for which the "start of construction" commenced before the effective date of this chapter.

(18) "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, and either final site grading or the pouring of concrete pads) is completed before the effective date of this chapter.

(19) "Existing structures" see "Existing construction"

(20) "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).

(21) "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.

(22) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

(23) "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) and/or flood-related erosion hazards.

(24) "Flood hazard boundary map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the flood related erosion areas having special hazards have been designated as Zone A, M, and/or E.

(25) "Flood insurance rate map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

(26) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles as well as the flood boundary map and the water surface elevation of the base flood.

(27) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(28) "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.

(29) "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.

(30) "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, structures and their contents.

(31) "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 an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

(32) "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.

(33) "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 flood plain management regulations.

(34) "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 one foot.

(35) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood

flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(36) "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, bridge openings and the hydrological effect of urbanization of the watershed.

(37) "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.

(38) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

(39) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminary 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 a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior, or

(ii) Directly by the Secretary of the Interior in states without approved programs.

(40) "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.

(41) "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.

(42) "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 this chapter.

(43) "Manufactured home" means a structure, transportable in one 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."

(44) "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.

(45) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

(46) "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 purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

(47) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "New construction" any structure for which the "start of construction" commenced on or after the effective date of this chapter. The term also includes any subsequent improvements to such structure.

(49) "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 chapter.

(50) "100-year flood" see "Base flood."

(51) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state or local governments and agencies.

(52) "Recreational vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projections;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(53) "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.

(54) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(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 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; 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 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" (Tennessee Department of Economic and Community Development, Local Planning Assistance Office) means the agency of the state government, or other office designated by the governor of the state or by state statute at the request of the administrator to assist in the implementation of the National Flood Insurance Program in that state.

(58) "Structure," for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(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 50 percent of the market value of the structure before the damage occurred.

(60) "Substantial improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty 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 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 50 percent 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 chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

(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 chapter 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, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas. (as added by Ord. #100300, Oct. 2000, and replaced by Ord. #010302, Jan. 2002)

14-102. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of Tellico Plains, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Tellico Plains, Tennessee, Federal Emergency Management Agency, Flood Insurance Rate Maps, Community - Number 470280A-Panel Numbers 01, and 02; Effective date: March 8, 1974 and any subsequent amendments or revisions, Flood Insurance Rate Map, Community Number 470233 - Panel Number 0175; Effective Date: September 4, 1991 and any subsequent amendments or revisions are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter 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) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed restriction. However, where this chapter conflicts or overlaps with another, whichever imposes the more stringent restrictions shall prevail.

(6) 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 governing body, and;
- (c) Deemed neither to limit nor repeal any other powers granted

under state statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Tellico Plains, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, 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 Town of Tellico Plains, Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #100300, Oct. 2000, and replaced by Ord. #010302, Jan. 2002)

14-103. Administration. (1) Designation of building official. The building official is hereby appointed to administer and implement the provisions of this chapter.

(2) Permit procedures. Application for a development permit shall be made to the building official on forms furnished by him prior to any development activity. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, 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.*

(ii) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed, where base flood elevation data is available.*

(iii) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in § 14-103(2)(b), where base flood elevation data is available.*

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

*(see (b) below)

(b) Construction stage. Within unnumbered A zones, where flood elevation data are not available, the (building official) shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building and the highest adjacent grade. USGS Quadrangle maps may be utilized when no more detailed reference exists to establish reference elevations.

Within all flood zones where base flood elevation data are utilized, the building official shall require that upon placement of the lowest floor, or flood-proofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the building official a certification of the elevation of the lowest floor, or flood-proofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by, or under the direct supervision of, a registered land surveyor, professional engineer, or architect and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The building official shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey 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 building official. Duties of the building official shall include, but not be limited to:

(a) Review of all development permits to assure that the requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the

Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

(d) Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with § 14-103(2)(b).

(e) Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) to which the new or substantially improved buildings have been flood-proofed, in accordance with § 14-103(2)(b).

(f) When flood-proofing is utilized, the building official shall obtain certification from a registered professional engineer or architect, in accordance with § 14-103(2)(b).

(g) 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) the building official shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 14-105.

(h) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the building official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, 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 community FHBM or FIRM meet the requirements of this chapter.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the building official shall require the lowest floor of a building to be elevated or floodproofed to a level of at least (2) two feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-101 of this chapter). All applicable data including the highest adjacent grade elevation and the elevations of the lowest floor of floodproofing shall be recorded as set forth in § 14-103(2).

(i) All records pertaining to the provisions of this chapter shall be maintained in the office of the building official and shall be open for public inspection. Permits issued under the provisions of this chapter

shall be maintained in a separate file or marked for expedited retrieval within combined files.

(j) Assure that the flood carrying capacity within an altered or relocated portion of any water course is maintained. (as added by Ord. #100300, Oct. 2000, and replaced by Ord. #010302, Jan. 2002)

14-104. Provisions for flood hazard reduction. (1) General standards. In all flood prone areas the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state 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 or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) 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 which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter; and,

(j) Any alteration, repair, reconstruction or improvements to a building which is not in compliance with the provision of this chapter, shall be undertaken only if said non-conformity is not extended.

(2) Standards for unmapped streams. Located within Tellico Plains, Tennessee are unmapped streams where areas of special flood hazard are

neither indicated nor base flood data or floodways have been provided. Adjacent to such streams the following provisions shall apply:

(a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream along each side of the stream, unless certification by a 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 (1) foot at any point within the locality.

(b) When flood elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-103(2)(b).

(3) Standards for subdivision proposals. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than fifty lots and/or five acres. (as added by Ord. #100300, Oct. 2000, and replaced by Ord. #010302, Jan. 2002)

14-105. Variance procedures. (1) Board of floodplain review.

(a) Creation and appointment. A board of floodplain review is hereby established which shall consist of (five) members appointed by the chief executive officer. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one, two, and three years respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereon, which shall be a public record.

Compensation of the members of the board of floodplain review shall be set by the board of mayor and aldermen.

(c) Appeals: how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, or bureau affected by any decision of the building official based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the board of floodplain review 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 twenty-five dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The building official shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review 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 thirty 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 board of floodplain review 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 building official or other administrative official in the carrying out or enforcement of any provisions of this chapter.

(ii) Variance procedures. (A) The Tellico Plains Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Variances may be issued for the repair or rehabilitation of historic structures (see definition) 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 to preserve the historic character and design of the structure.

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, 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 facility;

(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, and;

(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, and water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this chapter, the board of floodplain review may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this chapter.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(iii) Conditions for variances. (A) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(B) Variances shall only be issued upon

(1) A showing of good and sufficient cause,

(2) A determination that failure to grant the variance would result in exceptional hardship; and

(3) 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 level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(D) The building official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (as added by Ord. #100300, Oct. 2000, and replaced by Ord. #010302, Jan. 2002)

CHAPTER 2

SIGN ORDINANCE

SECTION

14-201. Authority, title, purpose and jurisdiction.

14-202. Definitions and terms.

14-203. General provisions.

14-204. Administration and enforcement.

14-201. Authority, title, purpose and jurisdiction. (1) Authority. In accordance with Article I § 2 of the Charter of the Town of Tellico Plains, Tennessee, the following chapter is hereby adopted:

(2) Title. This chapter shall be known as the "Sign Ordinance for Tellico Plains, Tennessee."

(3) Purpose. The purpose of this chapter is to establish reasonable and impartial regulations for the location of signs within the corporate limits of Tellico Plains, Tennessee. These regulations have been established in order to preserve the character of the town, while attracting sources of economic development and growth through flexible and diversified standards. These standards are intended to provide for adequate light, air, and open spaces, and a reduction in congestion and hazardous conditions within the town. Therefore, all new signs shall conform to the provisions of this chapter.

(4) Jurisdiction. This chapter shall apply to all areas within the corporate limits of the Town of Tellico Plains, Tennessee. (as added by Ord. #102501, Jan. 2002)

14-202. Definitions and terms. (1) Definitions. (a) Interpretation of defined terms. Terms found in this chapter for which definitions are set out in this article shall be interpreted as always having such meaning, unless the context within such term is used indicates otherwise.

(b) Interpretation of undefined terms. Terms found in this chapter for which no definition is included in this article shall be interpreted, if technical in nature, by reference to generally accepted planning, engineering, or other professional terminology; and if non-technical in nature, shall be interpreted according to common usage, unless the context within such term is used clearly indicates otherwise. Certain undefined terms, however, shall be interpreted as follows, unless the context clearly indicates otherwise:

(i) "Day." Unless otherwise specified, the term "day" shall mean calendar day.

(ii) "Land use." The term "land use" and "use of the land" shall be deemed also to include building use and use of building.

(iii) "Measurement of distances." Unless otherwise specified, all distances shall be measured horizontally and at right angles to the line in relation to which the distance is specified.

(iv) "Shall, may, and includes." The word "shall" is mandatory; the word "may" is permissive. The word "includes" shall not limit a term to the specific examples but is intended to extend its meaning to all other instances or circumstances of like character.

(v) "State; county." The word "state" means the State of Tennessee and its authorized agents. The word "county" means the county of Monroe, Tennessee, and its authorized agents.

(vi) "Tense; number." Words used in the present tense can include the future; words in the masculine gender can include the feminine and neuter; words in the singular numbers can include the plural; and words in the plural can include the singular, unless the obvious construction of the word indicates otherwise.

(vii) "Town." The word "town" means the Town of Tellico Plains, Tennessee and its authorized agents.

(viii) "Used; erected." The word "used" shall be deemed to also include designed; intended, or arranged to be used; the term "erected" shall be deemed also to include constructed, reconstructed, altered, placed, relocated or removed.

(2) Terms. (a) Access. The right to cross between public and private property, allowing pedestrians and vehicles to enter and leave property.

(b) Advertising. Includes any writing, printing, graphics, painting, display, emblem, drawing, sign, or other device, including but not limited to pennants on a cord, streamers, large inflated balloons designed, used, or intended for advertising, or to draw attention to the site on which such items are located, whether placed on the ground, rocks, trees, or other natural features or on buildings, structures, milestones, sign boards, billboards, wall board, roof board, frames, supports, fences or other man made structures.

(c) Billboard. A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

(d) Building. Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, or chattel.

(e) Commercial development. A development in which the principal activities are carried out for economic gain.

(f) Home occupation. A use of a dwelling unit for an occupation conducted by a resident thereof and which is clearly incidental to the use of the structure for residential purposes.

(g) Industrial park. A large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

(h) Industrial use. A use engaged in the processing and manufacturing of materials or products.

(i) Mall. A shopping center where stores front on both sides of a pedestrian way which may be enclosed or open.

(j) Mobile home park. A development of property in which ownership of the resulting lots are maintained by one owner (or company) and developed exclusive as mobile home rental sites.

(k) Multi-family dwelling. A residential building containing three (3) or more separate rental or owner occupied dwelling units located on a single lot.

(l) Premises. Any unit of land including any buildings or structures thereon.

(m) Roof line. The juncture of the roof and the perimeter wall of a structure.

(n) Shopping center. For the purposes of this chapter, a shopping center shall be considered as an enterprise which is internally separated or serrated into individual shops or separate, distinct business functions. Individual ownership is not a factor.

(o) Sign. Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

(i) Sign, awning, canopy, or marquee. A sign is mounted or painted on, or attached to, an awning, canopy, or marquee.

(ii) Sign, banner. Any sign intended to be hung either with or without frames, possessing characters, letters, illustration, or ornamentation applied to paper, plastic, or fabric of any kind. National flags, flags of political subdivisions, and symbolic flags of any institution or business shall not be considered banners for the purpose of this chapter.

(iii) Sign, construction. A temporary sign erected on the premises on which construction is taking place, during the period of such construction. Generally included on the sign are the names of the architects, engineers, landscape architects, contractors, owners, financial supporters, and similar individuals or firms having a role or interest with respect to the structure or product.

(iv) Sign, directory. A sign on which the names and locations of businesses, occupants, or the use of a building are given.

(v) Sign, ground. Any sign supported by uprights or braces, which is placed on or at ground level and not attached to any building.

(vi) Sign, nonconforming. Any sign that does not conform to the provisions of this chapter.

(vii) Sign, off-premises. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located.

(viii) Sign, on-premises. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, or other activity that is conducted, sold, or offered on the premises on which such sign is located.

(ix) Sign, pole. A sign that is mounted on a free standing pole or other support so that the bottom edge of the sign face is nine (9) or more feet above grade.

(x) Sign, projecting. Any sign attached to a building or other structure, which projects in such a manner that both sides thereof are visible.

(xi) Sign, roof. A sign which is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the roof line of a building.

(xii) Sign, temporary. A sign that is used in connection with a circumstance, situation, or event that is designed, intended or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

(xiii) Sign, vehicle. Any sign mounted on a vehicle and used for advertising or promotional purposes.

(xiv) Sign, wall. Any sign which is placed against a building or other structure and attached thereto in such a manner that only one side is visible.

(xv) Sign, window. Any sign placed inside or upon a window facing the outside and which is intended to be seen from the exterior.

(p) Sign area. The entire face of a sign including the advertising surface and any framing, trim or molding, but not including the supporting structure.

(q) Subdivision. The division of a tract or parcel or land into two (2) or more lots, sites, or other divisions requiring new street or utility construction. (as added by Ord. #102501, Jan. 2002)

14-203. General provisions. (1) General provisions. The following provisions shall apply to all signs within the corporate limits of the Town of Tellico Plains, Tennessee:

(a) Plans required. The building official shall be provided with plans and specifications identifying the location, type, and design of any sign requiring a permit under the provisions of this chapter.

(b) Height. No part of any sign shall exceed fifteen (15) feet in height. The height of the sign shall be determined by measuring from ground level at the base of the sign to the maximum height of the structures. The announcement portion of all permanent poll signs shall be located at least nine (9) feet above the ground. Signs placed above a walkway shall have a minimum clearance of nine (9) feet. Signs located above a driveway shall not be permitted.

(c) Setback. No part of any sign shall be placed closer than five (5) feet to any public right of way or access, except that the planning commission may require a greater distance if it is determined that a 200' site distance can not be met as a result of the location of the sign; signs of no more than three (3) square feet may be located at the right of way to designate entrances and exits provided that such signs will be less than three (3) feet higher than the driveway to prevent any obstruction of clear visibility to vehicles exiting the premises.

(d) Number of signs. No business shall have more than two (2) signs requiring a permit, but not two (2) signs of the same type; except on lots which extend between parallel streets, businesses may have three (3) signs, two (2) of which may be of the same type provided they do not front on the same parallel street. Entrance and exit signs shall not be included in the total number of signs allowed.

(e) Continuance of nonconforming signs. A lawful nonconforming sign existing at the time of the passage of this chapter, or any amendment thereto, shall be allowed to remain subject to the following provisions:

(i) When a non-conforming sign is discontinued or abandoned for a period of six (6) consecutive months, the sign shall be deemed to have been abandoned, and at such time shall be removed.

(ii) Any non-conforming sign which is damaged by fire, flood, wind, or other act of God or man, may be reconstructed as before, if it is done within six (6) months of such damage, unless damaged to an extent of more than sixty (60) percent of its value immediately prior to damage, in which case any repair or

reconstruction shall be in conformity with the provisions of this chapter.

(2) Signs not requiring a permit. The following types of signs are permitted, subject to the conditions set forth below and other applicable provisions of this chapter. Such signs do not require a permit.

(a) Political campaign signs. One (1) sign per candidate per premise, each sign no to exceed four (4) square feet in residential districts or sixteen (16) square feet in all other districts, may be erected on private property no more than thirty (30) days prior to the election. All campaign signs shall be removed by the property owner within seven days after the results of an election are certified. Political campaign signs are not permitted on public property, including utility poles.

(b) Temporary special event signs. Signs not exceeding seventy-five (75) square feet which announce a special event sponsored by a civic, philanthropic, educational, or religious organization may be erected no more than thirty (30) days prior to the event. All special event signs shall be removed within seven (7) days of the conclusion of an event.

(c) Parking areas/directional signs. Signs internal to parking areas, which direct vehicular or pedestrian traffic but bear no advertising, shall be no larger than three square feet each.

(d) Construction site signs. One sign noting construction information and trades shall be permitted for each site. The maximum size shall be thirty-two (32) square feet. The sign shall be allowed only until the project is complete and shall be removed prior to the building being occupied.

(e) Real estate sale/lease signs. Signs up to a total area of nine (9) square feet advertising the sale, rental, or lease of the premises or part of the premises on which the signs are displayed are permitted. Such signs shall be removed within fourteen (14) days of the sale, rental, or lease of said premises.

(f) Temporary portable signs. Portable signs may be used to announce the grand opening of a new business, the closing of an existing business, or special promotional events, but in no case shall such signs remain more than thirty (30) days. These signs shall be limited to thirty-two (32) square feet in size.

(g) Residential name/address signs. For each single family dwelling unit, one (1) nameplate indicating name, address, house number, home occupation, or an announcement of space for boarders or roomers if applicable, limited to four (4) square feet in area is permitted.

(3) Signs requiring a permit. (a) Signs for subdivisions, multi-family developments, and mobile home parks shall consist of one (1) permanent identification/entrance sign, not to exceed twenty (20) square feet in area nor twelve (12) feet in height is permitted.

(b) Signs for shopping centers, malls and commercial developments shall not exceed one hundred and fifty (150) square feet in area and each business within such developments shall be limited to one (1) wall sign containing no more than one (1) square foot of area per linear foot of wall which faces a public street and or customer parking area. Separate businesses on out parcels with public road frontage developed or marked along with a shopping center, mall, or commercial development may have one (1) ground sign and one (1) wall sign not exceeding the size established for ground and wall signs set out in § 14-203(4)(d). Entrance and exit signs shall not be included when determining total square footage of sign area.

(c) Industrial uses. (i) The maximum identification sign area permitted for separate establishments on individual lots shall be one hundred and fifty (150) square feet per separate industrial use; except that no ground sign or wall sign shall be greater than one hundred (100) square feet in area.

(ii) Industrial park entrance signs shall be limited to one (1) major directory sign not to exceed one hundred and seventy five (175) square feet.

(d) The maximum sign area permitted per business, shall be as follows except that total sign area shall not exceed one hundred and fifty (150) square feet.

(4) Maximum sign area permitted.

Type of Street	Posted Speed Limit	Wall Sign Size	Ground Sign Size	Projecting Sign Size
2-Lanes	20 mph	50 square feet	15 square feet	15 square feet
	25-30 mph	50 square feet	20 square feet	20 square feet
	35 mph	50 square feet	25 square feet	25 square feet
	40 mph	50 square feet	50 square feet	Not Permitted
	45-55 mph	100 square feet	100 square feet	Not Permitted
4-Lanes	20 mph	50 square feet	15 square feet	15 square feet
	25-30 mph	50 square feet	30 square feet	25 square feet
	35 mph	50 square feet	65 square feet	40 square feet
	40 mph	100 square feet	90 square feet	Not Permitted
	45-55 mph	100 square feet	100 square feet	Not Permitted
4-Lanes with Median or Turning Lane	30 mph	50 square feet	65 square feet	25 square feet
	35 mph	50 square feet	80 square feet	40 square feet
	40-65 mph	100 square feet	100 square feet	Not Permitted

(5) Prohibited signs and advertising devices. (a) Billboards.

(b) Signs which include action, motion, moving materials, or which have any moving parts; or contain flashing or rotating lights or bulbs; or are intermittently lighted; or interface with the view of traffic or could be confused with any authorized traffic control sign, signal or device, with the exception of signs that display time and temperature and public service announcements without advertising matter.

(c) Signs which advertise an activity, business, product or service not conducted on the premises upon which the sign is actually located; except for small directional signs no greater than four (4) square feet in area, limited to two (2) per business or institution.

(d) Roof signs.

(e) Signs that are not securely affixed to the ground, or otherwise affixed in a permanent manner to an approved supporting structure.

(f) Signs on public property including utility poles. Except those erected by an authorized public entity.

(g) All signs which are not expressly permitted by this chapter or any other ordinance of the town. (as added by Ord. #102501, Jan. 2002)

14-204. Administration and enforcement. (1) Sign permit required. It shall be unlawful to commence the excavation for or the construction of any sign requiring a permit, as established in § 14-203 until the building official has issued for such work a sign permit, including a statement that the plans, specifications, and intended use of such sign in all respects conforms with the provisions of this chapter. Application for a sign permit shall be made to the building official.

(2) Enforcing officer. The provisions of this chapter shall be administered and enforced by the building official. The building official shall have the authority to enter upon any land during reasonable hours and make examinations and surveys that do not occasion damage or injury to private property.

(3) Application for issuance of sign permits. For all newly constructed signs requiring a permit, a sign plan prepared in accordance with the provisions of § 14-203 shall be submitted with an application for a sign permit. If the request for issuance of a sign permit is refused, the building official shall state the reason for the refusal in writing.

(4) Expiration/extension of sign permit approvals. Sign permits shall be null and void after one (1) year months from the date of issuance, if, in the opinion of the building official substantial progress is not being made toward completion of the sign as it was approved. Upon the showing of good cause by the permit holder, the building official may grant an extension of one (1) and

only one (1) three (3) month period, so long as the permit holder applies for such as extension at least three (3) weeks prior to the expiration date of the permit.

(5) Final site inspection. In order to ensure that a sign has been constructed in accordance with the approved sign plan, the building official shall make a final inspection upon notification by the owner that construction on the sign has been completed. Within three working days of such application, the building official shall make a final inspection of the property in question, and shall issue a certification of occupancy if the sign is found to conform to the provisions of this chapter and the statements made in the application for the sign permit. If such certificate is refused, the building official shall state the reason(s) for such refusal in writing.

(6) Violations. Any person whether owner, lessee, principal, agent, employee, or otherwise who violates any provisions of this chapter, permits any such violation, or fails to comply with any of the provisions or requirements hereof, including any conditions, stipulations, or safeguards attached to any permit, or other final authorization or approval hereunder, or who erects, constructs or reconstructs any sign in violation of any written statement or plan submitted and approved pursuant to this chapter shall be guilty of a misdemeanor.

(7) Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be subject to such penalties as may be provided for by law. Each day of such violation shall constitute a separate offense.

(8) Appeals. (a) The applicability of this chapter or the validity of applicability of a regulation promulgated pursuant to this chapter may be determined in a hearing before the Tellico Plains Board of Mayor and Alderman. The board shall grant a hearing to aggrieved persons upon request. The complainant shall file a written petition. The planning commission shall hold a hearing on the appeal within sixty (60) days of receipt of petition. The complainant and all other interested parties shall be given notice of the time and place of the hearing.

(b) After an appeal to the legislative body, the complainant may seek judicial review. (as added by Ord. #102501, Jan. 2002)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. ENFORCEMENT.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. Driving under the influence.
- 15-105. One-way streets.
- 15-106. Unlaned streets.
- 15-107. Laned streets.
- 15-108. Yellow lines.
- 15-109. Miscellaneous traffic control signs, etc.
- 15-110. General requirements for traffic control signs, etc.
- 15-111. Unauthorized traffic control signs, etc.
- 15-112. Presumption with respect to traffic control signs, etc.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

²State law references

Under Tennessee Code Annotated, section 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, section 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, section 55-10-101 et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, section 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, section 55-10-501.

- 15-113. School safety patrols.
- 15-114. Driving through funerals or other processions.
- 15-115. Clinging to vehicles in motion.
- 15-116. Riding on outside of vehicles.
- 15-117. Backing vehicles.
- 15-118. Projections from the rear of vehicles.
- 15-119. Causing unnecessary noise.
- 15-120. Vehicles and operators to be licensed.
- 15-121. Passing.
- 15-122. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-123. Delivery of vehicle to unlicensed driver, etc.
- 15-124. Skateboarding.

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.

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.

15-103. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property.

15-104. Driving under the influence. (See Tennessee Code Annotated, sections 55-10-401, 55-10-303, and 55-10-307).

15-105. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction.

15-106. 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 town 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.

15-107. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary.

15-108. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street.

15-109. Miscellaneous traffic control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the town unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer.

15-110. General requirements for traffic control signs, etc. All traffic control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,² 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 town. This section shall not be construed as being mandatory but is merely directive.

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: sections 15-505--15-509.

²This manual may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

15-111. Unauthorized traffic control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal.

15-112. Presumption with respect to traffic control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper town authority.

15-113. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals.

15-114. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated.

15-115. 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.

15-116. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks.

15-117. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

15-118. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body

thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle.

15-119. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle.

15-120. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law."

15-121. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety.

15-122. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.¹ (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor capacity that does not exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) Each driver of a motorcycle, motor driven cycle, or motorized bicycle 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.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a

¹Municipal code reference

Limitations on riding "toy vehicles:" section 11-504.

windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section.

15-123. Delivery of vehicle to unlicensed driver, etc. (1) Definitions.

(a) "Adult" shall mean any person eighteen years of age or older.

(b) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(e) "Juvenile" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the Town of Tellico Plains unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town.

15-124. Skateboarding. (1) Definitions. (a) "Skateboard" is defined as a board made of wood, fiberglass, or other material or combination of materials mounted on two axles, front and rear, with two wheels made

of clay, polyurethane or other material or combination of materials attached to each axle. The term "skateboard" includes motorized skateboards propelled by a motor mounted on the skateboard.

(b) "Skateboarding" is defined as lying, sitting, squatting, kneeling, or standing upon a skateboard and propelling oneself by any means which causes the skateboard to move, including but not limited to: jumping on a skateboard; being pulled or pushed while situated on a skateboard; pushing the ground or other surface with one foot while keeping one's other foot on the skateboard; by riding a skateboard from one elevation to a lower elevation; or by operation of a motor mounted on a skateboard.

(2) Prohibition. (a) Skateboarding is prohibited on all streets, sidewalks and alleys in the Town of Tellico Plains.

(b) Skateboarding is prohibited on all other public property owned or controlled by the town and on all public property owned or controlled by other governmental entities, except as may be specifically authorized by the appropriate governmental entity.

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. The private vehicles of volunteer firemen shall not be deemed emergency vehicles.

15-202. Operation of authorized emergency vehicles.¹ (1) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred (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.

(2) 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.

(3) 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.

(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.

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
section 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.

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.

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

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.

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.

15-303. In school zones. Pursuant to Tennessee Code Annotated, section 55-8-152, the town shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the town council has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school, or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹

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.

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 lines of the two roadways.

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.

15-405. U-turns. U-turns are prohibited.

¹State law reference

Tennessee Code Annotated, section 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
15-502. When emerging from alleys, etc.
15-503. To prevent obstructing an intersection.
15-504. At "stop" signs.
15-505. At "yield" signs.
15-506. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

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.

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.

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety.

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

15-505. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted.

15-506. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency.

¹State law reference
Tennessee Code Annotated, section 55-8-143.

CHAPTER 6

ENFORCEMENT

SECTION

- 15-601. Issuance of traffic citations.
- 15-602. Failure to obey citation.
- 15-603. Impoundment of vehicles.
- 15-604. Disposal of abandoned motor vehicles.
- 15-605. Deposit of driver license in lieu of bail.
- 15-606. Violation and penalty.

15-601. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the town 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.

15-602. 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.

15-603. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been issued and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession,

¹Municipal code reference

Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 3.

State law reference

Tennessee Code Annotated, section 7-63-101 et seq.

and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of.

15-604. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, section 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, sections 55-16-103 through 55-16-109.

15-605. Deposit of driver license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court of this town in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the town court, and shall state such period of validity on its face.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the town court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated, section 55-50-801 et seq.

15-606. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each offense.

(2) Handicapped parking. Parking in a handicapped parking space shall be punished by a civil penalty of one hundred dollars (\$100.00)

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

1. MISCELLANEOUS.

CHAPTER 1

MISCELLANEOUS

SECTION

16-101. Obstructing streets, alleys, or sidewalks prohibited.

16-102. Trees, etc., obstructing view at intersections prohibited.

16-103. Littering streets, alleys, or sidewalks prohibited.

16-104. Obstruction of drainage ditches.

16-105. Abutting occupants to keep sidewalks clean, etc.

16-106. Fires in streets, etc.

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.

16-102. 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.

16-103. 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.

16-104. 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.

¹Municipal code references

Related motor vehicle and traffic regulations: title 9.

Limitations on riding "toy vehicles:" section 11-504.

16-105. 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.

16-106. 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.

CHAPTER 2

EXCAVATIONS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Safety restrictions on excavations.
- 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, including utility districts to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the town recorder is open for business, and the permit shall be retroactive to the date when the work was begun.

16-202. Applications. Applications for such permits shall be made to the town recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the town recorder within twenty-four (24) hours of its filing.

16-203. Fee. The fee for such permits shall be twenty dollars (\$20.00).

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the town recorder a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) 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 town recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town 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 town recorder a surety bond in such form and amount as the town recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration.

16-205. Safety restrictions on excavations. 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.

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 town shall restore the 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 promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the town recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town 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 town, 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.

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 town recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$150,000 for each person and \$350,000 for each accident, and for property damages not less than \$50,000 for any one (1) accident, and a \$75,000 aggregate.

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 town if the town 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 town recorder.

16-209. Supervision. The person designated by the board of mayor and aldermen 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 town 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.

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 recorder or other official designated by the council. 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. All new constructions or replacement of driveway drainage culverts shall have minimum dimensions of 15 inches in diameter for metal corrugated pipe or 12 inches in

diameter for concrete pipe, and twenty (20) feet in length, and shall be constructed in a manner not to impede adequate drainage along the road right-of-way. All installations shall be inspected by the town during installation.

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE STORAGE AND COLLECTION.

CHAPTER 1

REFUSE STORAGE AND COLLECTION

SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Refuse collection fees.
- 17-110. Violations and penalty.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith.

17-102. Premises to be kept clean. All persons within the town are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter.

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this town where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the town handles mechanically. Furthermore, except for containers which the town handles

¹Municipal code reference

Property maintenance regulations: title 13.

mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection.

17-104. Location of containers. Where alleys are used by the town refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the town refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the town for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection.

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose.

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of the mayor. Collections shall be made regularly in accordance with an announced schedule.

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys.

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited.

17-109. Refuse collection fees. Refuse collection fees shall be at such rates as are from time to time set by the board of mayor and aldermen by ordinance or resolution.¹

17-110. Violations and penalty. Violations of this chapter shall subject the offender to a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

¹Administrative ordinances and resolutions are of record in the office of the city recorder.

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER AND SEWER SYSTEM ADMINISTRATION.
2. WASTEWATER COLLECTION TREATMENT.
3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1

WATER AND SEWER SYSTEM ADMINISTRATION

SECTION

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Application and contract for service.
- 18-104. Service charges for temporary service.
- 18-105. Connection charges.
- 18-106. Water and sewer main extensions.
- 18-107. Water and sewer main extension variances.
- 18-108. Meters.
- 18-109. Meter tests.
- 18-110. Multiple services through a single meter.
- 18-111. Customer billing and payment policy.
- 18-112. Termination or refusal of service.
- 18-113. Termination of service by customer.
- 18-114. Access to customers' premises.
- 18-115. Inspections.
- 18-116. Customer's responsibility for system's property.
- 18-117. Customer's responsibility for violations.
- 18-118. Supply and resale of water.
- 18-119. Unauthorized use of or interference with water supply.
- 18-120. Limited use of unmetered private fire line.
- 18-121. Damages to property due to water pressure.
- 18-122. Liability for cutoff failures.
- 18-123. Restricted use of water.
- 18-124. Interruption of service.
- 18-125. Schedule of rates.

¹Municipal code references

Building, utility and housing codes: title 12

Refuse disposal: title 17

18-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water and sewer service from the town and shall apply whether the service is based upon contract, agreement, signed application, or otherwise.

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the town under either an express or implied contract.

(2) "Service line" shall consist of the pipe line extending from any water or sewer main of the town to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the town's water main to and including the meter and meter box.

(3) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(4) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling.

18-103. Application and contract for service. Each prospective customer desiring water and/or sewer service will be required to sign a standard form contract and pay a service deposit of \$30.00 before service is supplied. The service deposit shall be refundable if and only if the town cannot supply service in accordance with the terms of this chapter. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the town for the expense incurred by reason of its endeavor to furnish such service.

The receipt of a prospective customer's application for service, shall not obligate the town to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter, the liability of the town to the applicant shall be limited to the return of any deposit made by such applicant.

18-104. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service.

18-105. Connection charges. Service lines will be laid by the town 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 town.

Before a new water or sewer service line will be laid by the town, the applicant shall pay a nonrefundable connection charge of \$10.00.

When a service line is completed, the town 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 town. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer.

18-106. Water and sewer main extensions.¹ Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

All such extensions shall be installed either by town forces or by other forces working directly under the supervision of the town 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 town, such water and/or sewer mains shall become the property of the town. The persons paying the cost of constructing such mains shall execute any written instruments requested by the town to provide evidence of the town's title to such mains. In consideration of such mains being transferred to it, the town shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of the mains.

18-107. Water and sewer main extension variances. Whenever the town council is of the opinion that it is to the best interest of the town 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 town council.

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 town to make such extensions or to furnish service to any person or persons.

18-108. Meters. All meters shall be installed, tested, repaired, and removed only by the town.

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 town. No one shall install any pipe or

¹Municipal code reference

Construction of building sewers: title 18, chapter 2.

other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter.

18-109. Meter tests. The town will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The town will also make tests or inspections of its meters at the request of the customer. However, if a test required by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

<u>Meter Size</u>	<u>Test Charge</u>
5/8", 3/4", 1"	\$12.00
1-1/2", 2"	15.00
3"	18.00
4"	22.00
6" and over	30.00

If such test show a meter not to be accurate within such limits, the cost of such meter test shall be borne by the town.

18-110. Multiple services through a single meter. No customer shall supply water service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the town.

Where the town allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the town's applicable water schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service

line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied.

18-111. Customer billing and payment policy. Water and sewer bills shall be rendered monthly and shall designate a standard net payment period for all members, which shall be by 15th of month. Failure to receive a bill will not release a customer from payment obligation. There is established for all members a late payment charge not to exceed five percent (5%) for any portion of the bill paid after the net payment period.

Payment must be received in the water and sewer department no later than 4:30 P.M. on the due date. If the due date falls on Saturday, Sunday, or a holiday, net payment will be accepted if paid on the next business day no later than 4:30 P.M.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the town reserves the right to render an estimated bill based on the best information available.

18-112. Termination or refusal of service. (1) Basis of termination or refusal. The town shall have the right to discontinue water and sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (a) These rules and regulations, including the nonpayment of bills.
- (b) The customer's application for service.
- (c) The customer's contract for service.

The right to discontinue service shall apply to all water and sewer services received through collective single connections or services, even though more than one (1) customer or tenant is furnished services therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

(2) Termination of service. Reasonable written notice shall be given to the customer before termination of water service according to the following terms and conditions:

- (a) Written notice of termination (cut-off) shall be given to the customer at least ten (10) days prior to the scheduled date of termination. The cut-off notice shall specify the reason for the cut-off, and
 - (1) The amount due, including other charges.
 - (2) The last date to avoid service termination.
 - (3) Notification of the customer's right to a hearing prior to service termination, and, in the case of nonpayment of bills, of the availability of special counseling for emergency and hardship cases.

(b) In the case of termination for nonpayment of bills, the employee carrying out the termination procedure will attempt before disconnecting service to contact the customer at the premises in a final effort to collect payment and avoid termination. If the customer is not at home, service may be left connected for one (1) additional day and a further notice left at a location conspicuous to the customer.

(c) Hearings for service termination, including for nonpayment of bills, will be held by appointment at the company office between the hours of 8:00 A.M. and 4:30 P.M. on any business day, or by special request and appointment a hearing may be scheduled outside those hours.

(d) Termination will not be made on any preceding day when the water and sewer department is scheduled to be closed.

(e) If a customer does not request a hearing, or, in the case of nonpayment of a bill, does not make payment of the bill, or does not otherwise correct the problem that resulted in the notice of termination in a manner satisfactory to the water and sewer department, the same shall proceed on schedule with service termination.

(f) Service termination for any reason shall be reconnected only after the payment of all charges due or satisfactory arrangements for payment have been made, or the correction of the problem that resulted in the termination of service in a manner satisfactory to the water and sewer department, plus the payment of a reconnection charge of \$35.00.

18-113. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the town reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the town shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the town should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of the ten (10) day period.

(2) During the ten (10) day period, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant,

may be allowed by the town to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service.

18-114. Access to customers' premises. The town's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the town, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations.

18-115. Inspections. The town 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 town reserves the right to refuse service or to discontinue service to any premises not in compliance with any special contract, these rules and regulations, or other requirements of the town.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the town liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made.

18-116. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the town shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the town on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost of necessary repairs or replacements shall be paid by the customer.

18-117. Customer's responsibility for violations. Where the town furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him.

18-118. Supply and resale of water. All water shall be supplied within the town exclusively by the town, 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 town.

18-119. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the town's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the town.

18-120. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the town.

All private fire hydrants shall be sealed by the town, 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 town a written notice of such occurrence.

18-121. Damages to property due to water pressure. The town shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the town's water mains.

18-122. Liability for cutoff failures. The town's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the town has failed to cut off such service.

(2) The town has attempted to cut off a service but such service has not been completely cut off.

(3) The town 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 town's main.

Except to the extent stated above, the town 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 town's cutoff. Also, the customer (and not the town) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off.

18-123. Restricted use of water. In times of emergencies or in times of water shortage, the town reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use.

18-124. Interruption of service. The town will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The town 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 town shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption.

18-125. Schedule of rates. All water and sewer service shall be furnished under such rate schedules as the town may from time to time adopt by appropriate ordinance or resolution.¹

¹Administrative ordinances and regulations are of record in the office of the town recorder.

CHAPTER 2

WASTEWATER COLLECTION AND TREATMENT

SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Abbreviations.
- 18-204. General discharge prohibitions.
- 18-205. Federal categorical pretreatment standards.
- 18-206. Modification of federal categorical pretreatment standards.
- 18-207. Specific pollutant limitations.
- 18-208. State requirements.
- 18-209. Town's right of revision.
- 18-210. Excessive discharge.
- 18-211. Accidental discharges.
- 18-212. Fees.
- 18-213. Wastewater dischargers.
- 18-214. Wastewater permits.
- 18-215. Permit application.
- 18-216. Permit modification.
- 18-217. Permit conditions.
- 18-218. Permit duration.
- 18-219. Permit transfer.
- 18-220. Compliance date report.
- 18-221. Periodic compliance reports.
- 18-222. Monitoring facilities.
- 18-223. Inspection and sampling.
- 18-224. Pretreatment.
- 18-225. Confidential information.
- 18-226. Harmful contributions.
- 18-227. Revocation of permit.
- 18-228. Notification of violation.
- 18-229. Show cause hearing.
- 18-230. Legal action.
- 18-231. Civil penalties.
- 18-232. Falsifying information.

18-201. Purpose and policy. (1) This chapter sets forth uniform requirements for direct and indirect contributors in to the wastewater collection and treatment system for the Town of Tellico Plains and enables the town to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403).

(2) The objectives of this chapter are:

(a) To prevent the introduction of pollutants into the municipality wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(d) To provide for equitable distribution of the cost of the municipal wastewater system.

(3) This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(4) This chapter shall apply to the Town of Tellico Plains and to persons outside the town who are, by contract or agreement with the town, users of the town POTW. Except as otherwise provided herein, the superintendent of the town POTW shall administer, implement, and enforce the provisions of this chapter. (Ord. #12486, Dec. 1986)

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 of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20 centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(5) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.

(6) "Categorical standards." The National categorical pretreatment standards or pretreatment standard.

(7) "Town." The Town of Tellico Plains or the board of aldermen of Tellico Plains.

(8) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(9) "Control authority." The term "control authority" shall refer to the "approval authority," defined hereinabove; or the superintendent if the town has an approved pretreatment program under the provisions of 40 CFR 403.11.

(10) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(11) "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.

(12) "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.

(13) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(14) "Indirect discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(15) "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).

(16) "Interference." The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the Town's NPDES Permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

(17) "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.

(18) "National prohibitive discharge standard or prohibitive discharge standard." Any regulation developed under the authority of 307(b) of the act and 40 CFR, Section 403.5.

(19) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 301(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 in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(20) "National Pollution Discharge Elimination System or NPDES permit." A permit issued pursuant to section 402 of the act (33 U.S.C. 1342).

(21) "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 and the singular shall include the plural where indicated by the context.

(22) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(23) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(24) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.

(25) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except as prohibited by 40 CFR Section 403.6(d).

(26) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(27) "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 town. 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 town who are, by contract or agreement with the town, users of the town's POTW.

(28) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(29) "Shall" is mandatory; "May" is permissive.

(30) "Significant industrial user." Any industrial user of the town's wastewater disposal system who:

(a) has a discharge flow of 25,000 gallons or more per average work day, or

(b) has a flow greater than 5% of the flow in the town's wastewater treatment system, or

(c) has in his wastes toxic pollutants as defined pursuant to section 307 of the act of Tennessee Statutes and rules or

(d) is found by the town, state or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

(31) "State." The State of Tennessee.

(32) "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.

(33) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(34) "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.

(35) "Superintendent." The person designated by the town 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.

(36) "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.

(37) "User." Any person who contributes, causes or permits the contribution of wastewater into the town's POTW.

(38) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(39) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems,

drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(40) "Wastewater contribution permit." As set forth in § 18-215 through 18-220 of this chapter. (Ord. #12486, Dec. 1986)

18-203. Abbreviations. The following abbreviations shall have the designated meanings:

BOD	-	Biochemical Oxygen Demand.
CFR	-	Code of Federal Regulations.
COD	-	Chemical Oxygen Demand.
EPA	-	Environmental Protection Agency.
l	-	Liter.
mg	-	Milligrams.
mg/l	-	Milligrams per liter.
NPDES	-	National Pollutant Discharge Elimination System.
POTW	-	Publicly Owned Treatment Works.
SIC	-	Standard Industrial Classification.
SWDA	-	Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
USC	-	United States Code.
TSS	-	Total Suspended Solids. (Ord. #12486, Dec. 1986)

18-204. General discharge prohibitions. (1) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or 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 requirements. A user may not contribute the following substances to any POTW:

(a) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the town, 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 (1/2) in any dimension, animal guts or tissues, 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, unless the POTW is specifically designed to accommodate such wastewater, 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 toxic pollutants 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 and/or state disposal system permit or the receiving water quality standards.

(h) Any wastewater with objectionable color not removed in the treatment process, 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 exceeds 40°C (104°F) unless the POTW treatment plant is designed to accommodate such temperature.

(j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(k) Any wastewater containing any radioactive waste or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(l) Any wastewater which causes a hazard to human life or creates a public nuisance.

(2) When the superintendent determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the superintendent shall:

(a) Advise the user(s) of the impact of the contribution on the POTW; and

(b) Develop effluent limitation(s) for such user to correct the interference with the POTW. (Ord. #12486, Dec. 1986)

18-205. Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory shall immediately supersede the limitations imposed under this chapter. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12. (Ord. #12486, Dec. 1986)

18-206. Modification of federal categorical pretreatment standards. Where the town's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the town may apply to the approval authority for modification of specific limits in the federal pretreatment standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system 95 percent of the samples taken when measured according to the procedures set forth in Section 403.7(c)(2) of (Title 40 of the Code of Federal Regulations, Part 403) - "General Pollution" promulgated pursuant to the act. The Town may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR,

Part 403, Section 403.7, are fulfilled and prior approval from the approval authority is obtained. (Ord. #12486, Dec. 1986)

18-207. Specific pollutant limitations. No person shall discharge wastewater containing in excess of the pass through limitations for Tellico Plains, TN in Monroe County as determined by the Tennessee Department of Health and Environment:

Pass Through Limitations

Tellico Plains, TN	Monroe County
Parameter	Concentration ug/l
Copper	80
Chromium	60
Nickel	180
Cadmium	5
Lead	15
Mercury	1.0
Silver	5
Zinc	200
Cyanide	230
Toluene	15
Benzene	3
1,1,1-Trichloroethane	30
Ethylbenzene	4
Carbon tetrachloride	15
Chloroform	85
Tetrachloroethylene	25
Trichloroethylene	10
1,2 Tansdichloroethylene	1.5
Phenol	3
Naphthalene	1.0
Bis (2-ethyl hexyl) phthalate	
Butyl benzyl phthalate	Total=
Di-n-butyl phthalate	64
Diethyl phthalate	

JS/vsp/hold 11
(Ord. #12486, Dec. 1986)

18-208. State requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this ordinance. (Ord. #12486, Dec. 1986)

18-209. Town's right of revision. The town reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in § 18-201 of this chapter. (Ord. #12486, Dec. 1986)

18-210. Excessive discharge. No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the town or state. (Comment: Dilution may be an acceptable means of complying with some of the prohibitions set forth in § 18-204, e.g. the pH prohibition.) (Ord. #12486, Dec. 1986)

18-211. Accidental discharges. (1) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review, and shall be approved by the town before construction of the facility. All existing users shall complete such a plan by July 1, 1987. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the town. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(2) Within five (5) days following an accidental discharge; the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of 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 article or other applicable law.

(3) 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 insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. #12486, Dec. 1986)

18-212. Fees. (1) Purpose. It is the purpose of this chapter to provide for the recovery of costs from users of the town's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth the town's schedule of charges and fees.

(2) Charges and fees. The town may adopt charges and fees which may include:

- (a) Fees for reimbursement of costs of setting up and operating the town's pretreatment program;
- (b) Fees for monitoring, inspections and surveillance procedures;
- (c) Fees for reviewing accidental discharge procedures and construction;
- (d) Fees for permit applications;
- (e) Fees for filing appeals;
- (f) Fees for consistent removal (by the town) of pollutants otherwise subject to federal pretreatment standards;
- (g) Other fees as the town may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the town. (Ord. #12486, Dec. 1986)

18-213. Wastewater dischargers. It shall be unlawful to discharge without a town permit to any natural outlet within the Town of Tellico Plains, or in any area under the jurisdiction of said town, and/or to the POTW any wastewater except as authorized by the superintendent in accordance with the provisions of this chapter. (Ord. #12486, Dec. 1986)

18-214. Wastewater Permits. All significant 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 significant users connected to or contributing to the POTW shall obtain a wastewater contribution permit within 180 days after the effective date of this chapter. (Ord. #12486, Dec. 1986)

18-215. Permit application. (1) Users required to obtain a wastewater contribution permit shall complete and file with the town, an application in the form prescribed by the town, and accompanied by a fee of ten (10) dollars. Existing users shall apply for a wastewater contribution permit within 30 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. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(a) Name, address, and location, (if different from the address);
(b) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

(c) Wastewater constituents and characteristics including but not limited to those mentioned in §§ 18-204 through 18-211 of this chapter as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the act and contained in 40 CFR, Part 136, as amended;

(d) Time and duration of contribution;

(e) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;

(g) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

(h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards:

(i) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard:

The following conditions shall apply to this schedule:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(2) No increment referred to in paragraph (1) shall exceed 9 months.

(3) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the superintendent.

(j) Each product produced by type, amount, process or processes and rate of production;

(k) Type and amount of raw materials processed (average and maximum per day);

(l) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(m) Any other information as may be deemed by the town to be necessary to evaluate the permit application.

(2) The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a wastewater contribution permit subject to terms and conditions provided herein. (Ord. #12486, Dec. 1986)

18-216. Permit modification. Within 9 months of the promulgation of a national categorical pretreatment standard, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater contribution permit as required by § 18-215, the user shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by paragraph (h) and (i) of § 18-215. (Ord. #12486, Dec. 1986)

18-217. 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 town. Permits may contain the following:

(1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(2) Limits on the average and maximum wastewater constituents and characteristics;

- (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (4) Requirements for installation and maintenance of inspection and sampling facilities;
- (5) Specifications for monitoring programs which may include sampling, number, types and standards for tests and reporting schedule;
- (6) Compliance schedules;
- (7) Requirements for submission of technical reports or discharge reports;
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording town access thereto;
- (9) Requirements for notification of the town or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater treatment system;
- (10) Requirements for notification of slug discharges as per § 18-227;
- (11) Other conditions as deemed appropriate by the town to ensure compliance with this chapter. (Ord. #12486, Dec. 1986)

18-218. Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the town during the term of the permit as limitations or requirements as identified in §§ 18-204 through 18-211 are modified or other just cause exists. The user shall be informed of any proposed changes in his 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. (Ord. #12486, Dec. 1986)

18-219. 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 town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. (Ord. #12486, Dec. 1986)

18-220. Compliance date report. (1) Within 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.

(2) 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. (Ord. #12486, Dec. 1986)

18-221. Periodic compliance reports. (1) 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 reported in this section. 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.

(2) The superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by section (1) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator. (Comment: Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, sampling and analysis procedures for screening of industrial effluents for priority pollutants. April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator.) (Ord. #12486, Dec. 1986)

18-222. Monitoring facilities. (1) The town shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage system. The monitoring facility should normally be situated on the user's premises, but the town may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(2) 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.

(3) Whether constructed on public or private property, the sampling and monitoring, facilities shall be provided in accordance with the town's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the town. (Ord. #12486, Dec. 1986)

18-223. Inspection and sampling. The town 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 town or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The town approval authority and (where the NPDES state is the approval authority). 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 town approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. (Ord. #12486, Dec. 1986)

18-224. Pretreatment. (1) Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the town shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the town for review, and shall be acceptable to the town before construction of the facility. The review of such plans and operating procedures will in no way relieve the

user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the town prior to the user's initiation of the changes.

(2) The town shall annually publish in the local newspaper a list of the users which were not in compliance with any pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months.

(3) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request. (Ord. #12486, Dec. 1986)

18-225. Confidential information. (1) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the town that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(2) When requested by the person furnishing a 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 upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit and/or the pretreatment programs; 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.

(3) Information accepted by the town as confidential, shall not be transmitted to any governmental agency or to the general public by the town until and unless a ten-day notification is given to the user. (Ord. #12486, Dec. 1986)

18-226. Harmful contributions. (1) The town may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the town to violate any condition of its NPDES permit.

(2) Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the town shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The town shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the town within 15 days of the date of occurrence. (Ord. #12486, Dec. 1986)

18-227. Revocation of permit. Any user who violates the following conditions of this chapter, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of §§ 18-226 through 18-230 of this chapter:

- (1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- (2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
- (4) Violation of conditions of the permit. (Ord. #12486, Dec. 1986)

18-228. Notification of violation. Whenever the town finds that any user has violated or is violating this chapter, wastewater contribution permit, or any prohibition, limitation of requirements contained herein, the town may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the town by the user. (Ord. #12486, Dec. 1986)

18-229. Show cause hearing. (1) The town may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the board of 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 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 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) days before the hearing. Service may be made on any agent or officer of a corporation.

(2) The board of aldermen may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the (assigned department) to:

(a) Issue in the name of the board of aldermen notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(b) Take the evidence;

(c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board of aldermen for action thereon.

(3) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. 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.

(4) After the board of 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, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued. (Ord. #12486, Dec. 1986)

18-230. Legal action. If any person discharges sewage, industrial wastes or other wastes into the town's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the town, the town attorney may commence an action for appropriate legal and/or equitable relief in the Circuit Court of this county. (Ord. #12486, Dec. 1986)

18-231. Civil penalties. Any user who is found to have violated an order of the board of aldermen or who willfully or negligently failed to comply with any provision of this chapter, and the orders, rules, regulations and permits issued hereunder, shall be fined not less than (one hundred dollars) nor more than (one thousand dollars) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the town may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder. (Ord. #12486, Dec. 1986)

18-232. Falsifying information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filled or required to be maintained pursuant to

this chapter, or wastewater contribution 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.¹ (Ord. #12486, Dec. 1986)

¹Sections 10 and 11 of the ordinance comprising this chapter contain a sample industrial sewer connection application and a sample wastewater discharge permit. Those samples may be obtained in the office of the recorder.

CHAPTER 3

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-301. Definitions.
- 18-302. Standards.
- 18-303. Construction, operation, and supervision.
- 18-304. Statement required.
- 18-305. Inspections required.
- 18-306. Right of entry for inspections.
- 18-307. Correction of existing violations.
- 18-308. Use of protective devices.
- 18-309. Unpotable water to be labeled.
- 18-310. Violations.

18-301. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the town for general use and which supply is recognized as the public water supply by the Tennessee Department of Health and Environment.

(2) "Cross connection." Any physical arrangement whereby the public water supply is connected, directly or indirectly, with any other water supply system, whether sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross connections;

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

¹Municipal code reference
Plumbing and related codes: title 12.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

18-302. Standards. The municipal public water supply is to comply with Tennessee Code Annotated, sections 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses.

18-303. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Health and Environment and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the waterworks superintendent or his representative.

18-304. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the waterworks superintendent a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises.

18-305. Inspections required. It shall be the duty of the waterworks superintendent to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the waterworks superintendent and as approved by the Tennessee Department of Health and Environment.

18-306. Right of entry for inspections. The waterworks superintendent or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.

The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

18-307. Correction of existing violations. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the waterworks superintendent.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, section 68-221-711, within a reasonable time and within the time limits set by the waterworks superintendent shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the waterworks superintendent shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately.

18-308. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed (a) impractical to provide an effective air-gap separation, (b) that the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the waterworks superintendent, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply, (c) that the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing, (d) there is a likelihood that protective measures may be subverted, altered, or disconnected, the waterworks superintendent or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Health and Environment as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the waterworks superintendent prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health and

Environment. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the municipal public water supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the waterworks superintendent or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the waterworks superintendent shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The waterworks superintendent shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the waterworks superintendent.

The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the waterworks superintendent.

18-309. Unpotable water to be labeled. In order that the potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background.

18-310. Violations. The requirements contained herein shall apply to all premises served by the town water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the town to provide water services to any premises. Such action, being

essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined under the general penalty clause for this municipal code of ordinances.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.

CHAPTER 1

ELECTRICITY

SECTION

19-101. To be furnished by Fort Loudon Electric and Athens Utilities.

19-101. To be furnished by Fort Loudon Electric and Athens Utilities. Electricity shall be provided to the Town of Tellico Plains and its inhabitants by the Fort Loudon Electric and Athens Utilities. The rights, powers, duties, and obligations of the Town of Tellico Plains and its inhabitants, are stated in the agreements between the parties.¹

¹The agreements are of record in the office of the recorder.

TITLE 20

MISCELLANEOUS

(RESERVED FOR FUTURE USE)

ORD-1

ORDINANCE NO. 94-1*

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE MUNICIPAL CODE FOR THE TOWN OF TELlico PLAINS, TENNESSEE

WHEREAS the Town Council of the Town of Tellico Plains, Tennessee, needs a municipal code of a general, continuing, and permanent application, or of a penal nature, now, therefore:

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF TELlico PLAINS, TENNESSEE, THAT:

Section 1. Ordinances codified. The following "titles", namely "titles" 1 to 20 both inclusive, are ordained and adopted as the "Tellico Plains Municipal Code," hereinafter referred to as the "Municipal Code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing or authorizing the establishment of a social security system or providing or changing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc. any street or public way; any ordinance establishing and prescribing the grade of any street; and ordinance providing for local

improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified, wherever in the municipal code, including the codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in the municipal code the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of the municipal code shall be punishable by a penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section 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.

When any person is fined 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 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.¹

Each day any violation of the municipal code continues shall constitute a separate 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,

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, section 40-24-101 et seq.

and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

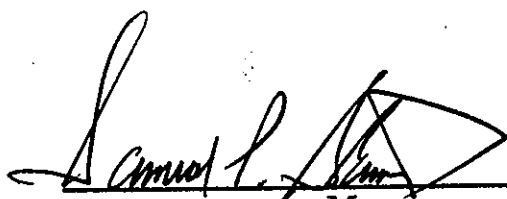
Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The city council, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

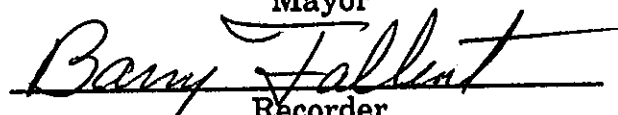
Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its 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.

Adopted July 7, 1994.



Mayor



Recorder