

**THE
WHITEVILLE
MUNICIPAL
CODE**

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

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TOWN OF WHITEVILLE, TENNESSEE

MAYOR

Julian Cooper

ALDERMEN

Ernie Burkeen
Carl Campbell
George T. Dotson
Patricia Gibbs
George T. Phillips
William Woods

RECORDER

Nida H. Campbell

Preface

The Whiteville Municipal Code contains the codification and revision of the ordinances of the Town of Whiteville, 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 G. Gardner, the MTAS Sr. Word Processing Specialist who did all the typing on this project, is gratefully acknowledged.

Mark Pullen
Legal Consultant

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

ORDINANCES--HOW PASSED

Sec. 13. Be it further enacted, That no bill or ordinance shall become a law of the said town of Whiteville unless the same shall have passed three readings by a majority vote, and shall have been signed by the Mayor, unless he fail to veto same by the next regular meeting of the Board. The Mayor shall examine all bills passed and affix his signature at once if the same meets his approval; if it does not meet his approval he shall return the same to the next regular meeting of the Board with his objections in writing, and no law so vetoed shall go into effect unless and until it again passes by the majority of the entire Board.

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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

- 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 board of mayor and aldermen shall hold regular monthly meetings at 7:30 p.m. on the first Monday of each month at the town hall. (1979 Code, § 1-101)

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

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

¹Municipal code references

Building inspector: title 12.

Fire department: title 7.

Utilities: title 18.

For the resolution authorizing creation of the industrial development board, see records in the recorder's office.

²Charter references

- (1) Elections: § 4.
- (2) Oath of office: § 5.
- (3) Ordinances--how passed: § 13.
- (4) Ordinance powers: § 9.
- (5) Qualifications of members--board to judge: § 8.
- (6) Term and qualifications: § 3.
- (7) Who is eligible: § 7.

- (3) Reading of minutes of the previous meeting by the recorder and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the board of mayor and aldermen, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1979 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1979 Code, § 1-103)

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 municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1979 Code, § 1-201)

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1979 Code, § 1-202)

¹Charter references

Duties, qualifications, etc.: §§ 3 through 7 and § 14.

CHAPTER 3

RECORDER¹

SECTION

1-301. To be bonded.

1-302. To preserve ordinances.

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 board of mayor and aldermen. (1979 Code, § 1-301)

1-302. To preserve ordinances. The recorder shall preserve the original copy of all ordinances in a separate ordinance book. (1979 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the town which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. He shall also have custody of, and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the town shall provide. (1979 Code, § 1-303)

¹Charter reference: § 12.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

(RESERVED FOR FUTURE USE)

TITLE 3

MUNICIPAL COURT

CHAPTER

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

CHAPTER 1

TOWN JUDGE

SECTION

- 3-101. Office of municipal judge established.
- 3-102. Judge to have powers and functions provided by charter for mayor's court.
- 3-103. Qualifications.
- 3-104. Appointment and term of office.
- 3-105. Vacancies.
- 3-106. Oath of office and bond.
- 3-107. Salary.
- 3-108. Absence or disability.

3-101. Office of municipal judge established. Pursuant to authority granted in Tennessee Code Annotated §§ 16-18-101 and 16-18-102, there is hereby created and established for the Town of Whiteville, Tennessee, the office of municipal judge. (1979 Code, § 1-501)

3-102. Judge to have powers and functions provided by charter for mayor's court. The municipal judge shall be vested with the same powers and functions and shall be subject to the same provisions of law and the town's charter governing the mayor's court.¹ (1979 Code, § 1-502)

3-103. Qualifications. The municipal judge shall be at least twenty-one (21) years of age. (1979 Code, § 1-503)

3-104. Appointment and term of office. The municipal judge shall be appointed by the board of mayor and aldermen and shall serve at the pleasure

¹Charter reference: § 14.

of the board. The term of office shall be for two years, unless sooner removed by the board, said term beginning at 12:01 a.m. the first day of February, and any incumbent judge shall serve during the term and until his successor is appointed and qualified. (1979 Code, § 1-504)

3-105. Vacancies. Any vacancies occurring in the office of municipal judge shall be filled by the board of mayor and aldermen for the unexpired term. (1979 Code, § 1-505)

3-106. Oath of office and bond. The municipal judge shall, before entering upon his duties as such, take an oath before a justice of the peace to support the Constitution of the United States and the State of Tennessee and faithfully and honestly to perform his duties during his term of office. He shall post a bond in the amount and in the manner prescribed by the board of mayor and aldermen. The cost of said bond shall be paid by the Town of Whiteville. (1979 Code, § 1-506)

3-107. Salary. The salary shall be set by the board of mayor and aldermen before the appointment of the municipal judge and shall not be altered during the term for which he is appointed. (1979 Code, § 1-507)

3-108. Absence or disability. The municipal judge shall designate in writing to the board of mayor and aldermen a person to serve as judge in the event the judge is absent or is disabled and unable to perform his duties as municipal judge. (1979 Code, § 1-508)

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket.

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

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

3-204. Disturbance of proceedings.

3-201. Maintenance of docket. The municipal 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. (1979 Code, § 1-509)

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

In all cases heard or determined by him, the municipal judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions¹ for similar work in state cases. (1979 Code, § 1-515, modified)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the municipal 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 board of mayor and aldermen a report accounting for the collection or noncollection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1979 Code, § 1-518)

3-204. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the municipal court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1979 Code, § 1-519)

¹State law reference

Tennessee Code Annotated, § 8-21-401.

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 municipal judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1979 Code, § 1-510)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the municipal judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to appear personally before the municipal court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the municipal 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. (1979 Code, § 1-511)

3-303. Issuance of subpoenas. The municipal judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1979 Code, § 1-512)

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 authorized¹. When the municipal judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the municipal judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1979 Code, § 1-514)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the municipal court against him may, within ten (10) days² next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (1979 Code, § 1-516)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the municipal court shall be in such amount as the municipal judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the municipal court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00), and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property within the county. No other type bond shall be acceptable. (1979 Code, § 1-517)

¹Municipal code reference

Deposit of an operator's or chauffeur's license in lieu of bond for traffic violations: §15-706.

²State law reference

Tennessee Code Annotated, § 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. ADOPTION OF REGULATIONS.

CHAPTER 1

ADOPTION OF REGULATIONS

SECTION

4-101. Adoption of regulations.

4-101. Adoption of regulations. All regulations governing municipal personnel employed by the Town of Whiteville are to be found in the Personnel Regulations.¹

¹The Personnel Regulations of the Town of Whiteville are published separately and maintained in the recorder's office.

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. WHOLESALE BEER TAX.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depository for town funds.
- 5-102. Municipal purchasing act.

5-101. Official depository for town funds. The Whiteville Savings Bank of Whiteville, Tennessee, is hereby designated as the official depository for all municipal funds. (1979 Code, § 6-101)

5-102. Municipal purchasing act. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of four thousand dollars (\$4,000.00) except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1984. (Ord. 102, § 1)

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

5-201. When due and payable. Taxes levied by the town against real property shall become due and payable annually on the first day of November of the year for which levied. (1979 Code, § 6-201)

5-202. When delinquent--penalty and interest. All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to the following penalty and interest:

March	½%	August	5%
April	½%	September	6%
May	2%	October	7%
June	3%	November	8%
July	4%	December	9%

The penalty and interest for the subsequent year shall be ten percent (10%) for January and eleven percent (11%) in February. Thereafter the penalty and interest shall be at the rate of twelve percent (12%) per year. (1979 Code, § 6-202)

CHAPTER 3

WHOLESALE BEER TAX

SECTION

5-301. To be collected.

5-301. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in chapter 3 of title 57, Tennessee Code Annotated. (1979 Code, § 6-301)

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1

POLICE AND ARREST¹

SECTION

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

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1979 Code, § 1-401)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the town. They shall patrol the town and shall assist the municipal court during the trial of cases. Policemen shall also promptly serve any legal process issued by the municipal court. (1979 Code, § 1-402)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the board of mayor and aldermen shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1979 Code, § 1-403)

¹Municipal reference

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

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

(1) Whenever he is in possession of a warrant for the arrest of the person.

(2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1979 Code, § 1-404)

6-105. Policemen may require assistance. It shall be unlawful for any person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such person's assistance is requested by the policeman and is reasonably necessary. (1979 Code, § 1-405)

6-106. Disposition of persons arrested. Unless other authorized by law, when any person is arrested, he shall be brought before the municipal court for immediate trial or allowed to post bond. When the municipal judge is not immediately available or the alleged offender does not post the required bond, he shall be confined. (1979 Code, § 1-406)

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

(1) All known or reported offenses and/or crimes committed within the corporate limits.

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1979 Code, § 1-407)

CHAPTER 2

WORKHOUSE

SECTION

6-201. County workhouse to be used.

6-202. Inmates to be worked.

6-203. Compensation of inmates.

6-201. County workhouse to be used. The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1979 Code, § 1-601)

6-202. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1979 Code, § 1-602)

6-203. Compensation of inmates. Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines assessed against him.¹ (1979 Code, § 1-603)

¹State law reference

Tennessee Code Annotated, section 40-24-102.

TITLE 7

FIRE PROTECTION AND FIREWORKS

CHAPTER

1. MISCELLANEOUS.
2. FIRE CODE.
3. VOLUNTEER FIRE DEPARTMENT.

CHAPTER 1

MISCELLANEOUS

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be the area zoned as the central business district. (1979 Code, § 7-101)

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. Violations.

7-201. Fire code adopted. Pursuant to authority granted by sections 6-54-501 through 6-54-506, Tennessee Code Annotated, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Fire Prevention Code,² 1976 edition as recommended by the American Insurance Association, is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of section 6-54-502 of the Tennessee Code Annotated, one (1) copy of said fire prevention code has been filed with the recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1979 Code, § 7-201)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the volunteer fire department. He shall have the same powers as the state fire marshal. (1979 Code, § 7-202)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the Town of Whiteville, Tennessee. (1979 Code, § 7-203)

7-204. Storage of explosives, flammable liquids, etc. The limits referred to in section 12.5b of the fire prevention code, in which storage of explosives and

¹Municipal code reference

Building, utility and housing codes: title 12.

²Copies of this code are available from the American Insurance Association, Engineering and Safety Service, 85 John Street, New York, New York 10038.

blasting agents is prohibited, are hereby declared to be the fire limits as set out in section 7-101 of this code.

The limits referred to in section 16.22a of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, are hereby declared to be the fire limits as set out in section 7-101 of this code.

The limits referred to in section 16.61 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby declared to be the fire limits as set out in section 7-101 of this code.

The limits referred to in section 21.6a of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in section 7-101 of this code. (1979 Code, § 7-204)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1979 Code, § 7-205)

7-206. Variances. The chief of the volunteer fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (1979 Code, § 7-206)

7-207. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code hereby adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1979 Code, § 7-207)

CHAPTER 3

VOLUNTEER FIRE DEPARTMENT¹

SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Organization, rules, and regulations.

7-304. Records and reports.

7-305. Tenure and compensation of members.

7-306. Chief responsible for training and maintenance.

7-307. Use of equipment outside corporate limits.

7-308. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations by the board of mayor and aldermen. All apparatus, equipment, and supplies shall be purchased by or through the town and shall be and remain the property of the town. The volunteer fire department shall be composed of a chief appointed by the board of mayor and aldermen and such number of physically-fit subordinate officers and firemen as the chief shall appoint. (1979 Code, § 7-301)

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

(1) To prevent uncontrolled fires from starting.

(2) To prevent the loss of life and property because of fires.

(3) To confine fires to their places of origin.

(4) To extinguish uncontrolled fires.

(5) To prevent loss of life from asphyxiation or drowning.

(6) To perform such rescue work as its equipment and/or the training of its personnel make practicable. (1979 Code, § 7-302)

7-303. 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 shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the volunteer fire department. (1979 Code, § 7-303)

¹Municipal code reference

Respect to traffic: title 15, chapter 2.

7-304. 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 a written report on such matters to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1979 Code, § 7-304)

7-305. Tenure and compensation of members. The chief shall hold office so long as his conduct and efficiency are satisfactory to the board of mayor and aldermen. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the volunteer fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor but may be dismissed only by the board of mayor and aldermen.

All personnel of the volunteer fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe. (1979 Code, § 7-305)

7-306. Chief responsible for training and maintenance. The chief of the volunteer fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the volunteer fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1979 Code, § 7-306)

7-307. Use of equipment outside corporate limits. The equipment and manpower of the volunteer fire department may be used for fighting fires outside the corporate limits under the following conditions:

(1) All equipment of the volunteer fire department may be used on fire calls outside the corporate limits with the exception that the latest model fire truck (pumper) shall not leave the corporate limits under any circumstances.

(2) Fire calls made outside the corporate limits are limited to the residents and businesses in Hardeman and Fayette Counties, and in no case will this service be extended beyond a nine (9) mile radius measured from the Fire Station of the Town of Whiteville.

(3) If a truck is dispatched to a fire or fires outside the corporate limits, no more than four (4) men may go on the first truck, and if the second truck is sent, then only one (1) man is to go on it.

(4) Protection of the residents of the Town of Whiteville is the first priority of the volunteer fire department and refusal of service outside the corporate limits or recall of equipment dispatched to areas outside the corporate limits shall be made by the mayor or fire chief, if a fire or fires within the corporate limits is determined to warrant such refusal of outside service or recall of equipment.

Persons receiving fire service outside the corporate limits shall be billed a fee of one hundred and fifty dollars (\$150.00) if one truck is used and two hundred dollars (\$200.00) if two trucks are used.

The board of mayor and aldermen shall order all use of equipment outside the corporate limits discontinued if collections of the fees referenced in subsection (3) do not equal the town's cost of providing fire protection outside the corporate limits.

Mutual aid assistance responses to other municipalities will be made when the request for assistance and/or equipment is made by the fire chief or mayor of the requesting municipality. (1979 Code, § 7-307)

7-308. Chief to be assistant to state officer. Pursuant to requirements of section 68-17-108 of the Tennessee Code Annotated, the chief of the volunteer fire department is designated as an assistant to the state commissioner of insurance and banking and is subject to all the duties and obligations imposed by chapter 17 of title 68 of said Tennessee Code Annotated, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1979 Code, § 7-308)

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 the Town of Whiteville. "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. (1979 Code, § 2-101)

¹Municipal code reference

Prohibiting drinking beer, etc., on the streets, etc.: title 11.

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Tennessee Code Annotated, title 39, chapter 6.

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. Beer permits shall be restrictive.
- 8-209. Interference with public health, safety, and morals prohibited.
- 8-210. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-211. Prohibited conduct or activities by beer permit holders.
- 8-212. Revocation of beer permits.

8-201. Beer board established. There is hereby established a beer board to be composed of all the members of the board of mayor and aldermen. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without additional compensation. (1979 Code, § 2-201)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. When there is business to come before the beer board, the board of mayor and aldermen shall adjourn their regular meeting and shall reconvene as the beer board. The beer board shall hold its meetings on the same day and time as the regular board of mayor and aldermen meeting. (1979 Code, § 2-202)

¹State law reference

For a leading case in Tennessee on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104, 1982). 203 S.W. 2d 593.

Municipal code references

General business regulations: title 9.

Tax provisions: title 5.

Provisions prohibiting minors in beer places and prohibiting drinking beer on streets, etc.: title 11.

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; 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. (1979 Code, § 2-203)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. 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. (1979 Code, § 2-204)

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the Town of Whiteville in accordance with the provisions of this chapter. (1979 Code, § 2-205)

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. (1979 Code, § 2-206)

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 a form, prescribed by the beer board. Notice of application for beer permit must be published twice, with the first publication at least thirty (30) days prior to the beer board meeting. Each applicant must be a person of good moral character and must certify that he has read and is familiar with the provisions of this chapter. (1979 Code, § 2-207)

8-208. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. Beer

permits are issued for one location only. No beer permit shall be subject to transfer or assignment. No permit will be issued to a spouse, child, relative, employee, or other person having any interest in the business of a licensee whose beer permit has been revoked in the past twelve (12) months. (1979 Code, § 2-208)

8-209. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the storage, sale, or manufacture of beer at places within one hundred (100) meters of any school, church, or government office building measured along street rights of way. No permits shall be issued for an area zoned residential.

No permit shall be issued for sale of beer from any portable, mobile, or temporary type building, or any building of less than five hundred square feet.

Advertisements for beer visible outside any establishment are limited to one sign only and may not total more than twenty (20) square feet on both sides. (This provision does not apply to any advertisements existing at the time the provisions of this chapter were passed, or existing at the time of annexation of any establishment.) (1979 Code, § 2-210)

8-210. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted of violation of the liquor or drug laws, or any crime involving moral turpitude within the past ten (10) years. (1979 Code, § 2-211)

8-211. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for violation of the liquor or drug laws or any crime involving moral turpitude within the past ten (10) years.

(2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer. (This provision shall not apply to stores whose gross revenue is derived at least 51% from the sale of foodstuffs).

(3) Make or allow any sale or distribution of beer on the premises between the hours of 12:00 midnight and 6:00 a.m. during any night of the week. On Sunday, the hours for making or allowing any sale or distribution of beer shall be from 12:00 noon until 12:00 midnight.

It is further prohibited to make or allow any sale or distribution of beer on election day before and while the polls are lawfully open.

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

- (5) Make or allow any sale of beer to a minor under twenty-one (21) years of age.
- (6) Allow any minor under twenty-one (21) years of age to loiter in or about his place of business.
- (7) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (8) Allow drunk or disreputable persons to loiter about his premises.
- (9) 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.
- (10) Allow gambling on his premises.
- (11) Allow dancing on his premises. (1979 Code, § 2-212, modified)

8-212. Revocation of beer permits. The beer board shall have the power to revoke or suspend 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 or suspended 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 board of mayor and aldermen. (1979 Code, § 2-213)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. POOL ROOMS.

CHAPTER 1

MISCELLANEOUS

SECTION

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

9-101. "Going out of business" sales. It shall be unlawful for any person falsely to represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person after advertising a "going out of business" sale adds to his stock or fails to go out of business within ninety (90) days, he shall prima facie be deemed to have violated this section. (1979 Code, § 5-101)

¹Municipal code references

Beer business regulations: title 8, chapter 2.

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

Privilege tax provisions: title 5.

Junkyards: title 13.

Restrictions on posting notices, etc.: title 11.

Zoning: title 14.

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets.
- 9-209. Exhibition of permit.
- 9-210. Policemen to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.
- 9-214. Hours regulated.

9-201. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1979 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable 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 bona fide charitable, religious, patriotic, or philanthropic organizations. (1979 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.

¹Municipal code reference

Privilege tax provisions, etc.: title 5.

(3) A brief description of the nature of the business and the goods to be sold.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.

(7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator properly to evaluate the applicant's moral reputation and business responsibility.

(8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance, the nature of the offense, and the punishment or penalty assessed therefor.

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the town to cover the cost of investigating the facts stated therein. (1979 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the recorder within seventy-two (72) hours.

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

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory, the recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by section 9-206. The recorder shall keep a permanent record of all permits issued. (1979 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the recorder in the denial of a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in

writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1979 Code, § 5-205)

9-206. Bond. Every permittee shall file with the recorder a surety bond running to the town in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the Town of Whiteville and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the town that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the town doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1979 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the town or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell. (1979 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1979 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1979 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1979 Code, § 5-210)

9-211. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

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

(3) When it is reasonably necessary in the public interest, the mayor may suspend a permit pending the revocation hearing. (1979 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1979 Code, § 5-212)

9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1979 Code, § 5-213)

9-214. Hours regulated. Permittees acting under this chapter may engage in the permitted business between the hours of 10:00 a.m. and 6:00 p.m. on any day. Conducting such business at any other time is unlawful. (1979 Code, § 5-214)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.
- 9-305. Trespassing.
- 9-306. Violations.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the recorder authorizing such solicitation. Provided, however, that this chapter shall not apply to any locally established organization or church operated exclusively for charitable or religious purpose if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1979 Code, § 5-301)

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

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

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

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

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1979 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1979 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1979 Code, § 5-304)

9-305. Trespassing. It shall be unlawful and deemed to be a trespass for any permittee acting under this chapter to fail to leave promptly the private premises of any person who requests or directs him to leave. (1979 Code, § 5-305)

9-306. Violations. Any person violating any provision of this chapter or making a false or fraudulent statement either in his application for a permit or in the process of making a solicitation shall be subject to the penalty provided for violations of this municipal code. In addition to or in lieu of any pecuniary penalty, if a violator has been issued a permit, his permit shall be cancelled and revoked by the court. (1979 Code, § 5-306)

CHAPTER 4

POOL ROOMS¹

SECTION

9-401. Prohibited in residential areas.

9-402. Hours of operation regulated.

9-403. Minors to be kept out; exception.

9-404. Gambling, etc., not to be allowed.

9-401. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1979 Code, § 5-401)

9-402. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire between the hours of 12:00 midnight and 6:00 a.m. during any night of the week. On Sunday, the hours for opening, maintaining, conducting or operating any place of business where pool tables or billiard tables are kept for public use or hire shall be from 12:00 noon until 12:00 midnight. (1979 Code, § 5-402)

9-403. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1979 Code, § 5-403)

9-404. Gambling, etc., not to be allowed. It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables or

¹Municipal code reference

Privilege tax provisions, etc.: title 5.

billiard tables are kept for public use or hire, to permit any gambling or other unlawful or immoral conduct on such premises. (1979 Code, § 5-404)

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL.
2. DOGS.

CHAPTER 1

IN GENERAL

SECTION

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Cruel treatment prohibited.
- 10-107. Seizure and disposition of animals.
- 10-108. Inspections of premises.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, 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. (1979 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within one thousand (1,000) feet of any residence, place of business, or public street without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1979 Code, § 3-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1979 Code, § 3-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water,

shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1979 Code, § 3-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance either because of noise, odor, contagious disease, or other reason. (1979 Code, § 3-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1979 Code, § 3-106)

10-107. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold.

If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance. (1979 Code, § 3-107)

10-108. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this chapter, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1979 Code, § 3-108)

CHAPTER 2

DOGS

SECTION

10-201. Rabies vaccination and registration required.

10-202. Dogs to wear tags.

10-203. Running at large prohibited.

10-204. Vicious dogs to be securely restrained.

10-205. Noisy dogs prohibited.

10-206. Confinement of dogs suspected of being rabid.

10-207. Seizure and disposition of dogs.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Sections 68-8-101 to 68-8-114, Tennessee Code Annotated) or other applicable law. (1979 Code, § 3-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1979 Code, § 3-202)

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1979 Code, § 3-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1979 Code, § 3-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (1979 Code, § 3-205)

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason

¹State law reference

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

suspected of being infected with rabies, the health officer or chief of police may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1979 Code, § 3-206)

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

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded, it may be summarily destroyed by the health officer or any policeman.¹ (1979 Code, § 3-207)

¹State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see the 1927 case of Darnell v. Shapard, 156 Tenn. 544, 3 S.W. 2d 661.

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. MISDEMEANORS OF THE STATE ADOPTED.
2. OFFENSES INVOLVING ALCOHOL.
3. OFFENSES AGAINST ADMINISTRATION OF GOVERNMENT.
4. OFFENSES AGAINST PROPERTY.
5. OFFENSES AGAINST THE PEACE AND QUIET.
6. OFFENSES AGAINST THE PUBLIC HEALTH, SAFETY, WELFARE.

CHAPTER 1

MISDEMEANORS OF THE STATE ADOPTED

SECTION

11-101. Misdemeanors of the state adopted.

11-101. Misdemeanors of the state adopted.² All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the Common Law to be misdemeanors are hereby designated and declared to be offenses against this Town of Whiteville also. Any violation of any such law within the corporate limits is also a violation of this section. (1979 Code, § 10-101)

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.

²State law reference

For the definition of "misdemeanor," see Tennessee Code Annotated, sections 39-11-110 and 39-11-111.

CHAPTER 2

OFFENSES INVOLVING ALCOHOL¹

SECTION

11-201. Public drunkenness.

11-202. Drinking alcoholic beverages in public, etc.

11-203. Minors in beer places.

11-201. Public drunkenness. See Tennessee Code Annotated, section 39-17-310; see also title 33, chapter 8.

11-202. 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. (1979 Code, § 10-226)

11-203. 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 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 3

OFFENSES AGAINST ADMINISTRATION OF GOVERNMENT

SECTION

11-301. Escape from custody or confinement.

11-302. Impersonating a government officer or employee.

11-303. Resisting or interfering with town personnel.

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. (1979 Code, § 10-209)

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. (1979 Code, § 10-211)

11-303. Resisting or interfering with town personnel. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the town while such officer or employee is performing or attempting to perform his municipal duties. (1979 Code, § 10-210)

CHAPTER 4

OFFENSES AGAINST PROPERTY

SECTION

11-401. Trespassing.

11-402. Malicious mischief.

11-403. Interference with traffic.

11-401. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1979 Code, § 10-224)

11-402. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1979 Code, § 10-223)

11-403. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1979 Code, § 10-229)

CHAPTER 5

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-501. Disturbing the peace.

11-502. Anti-noise regulations.

11-501. 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. (1979 Code, § 10-202)

11-502. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.

(1) Miscellaneous prohibited noises enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) Blowing horns. The sounding of any horn or signal device on any automobile, motorcycle, bus, truck, or other vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, 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 persons in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(e) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper municipal authorities.

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

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 a.m. and 6:00 p.m. on week days, except in case of urgent necessity in the interest of public health and safety.

(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, sale, or display of merchandise.

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

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

(a) Municipal vehicles. Any vehicle of the 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 recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1979 Code, § 10-230)

CHAPTER 6

OFFENSES AGAINST THE PUBLIC HEALTH, SAFETY OR WELFARE

SECTION

- 11-601. Air rifles, etc.
- 11-602. Throwing missiles.
- 11-603. Discharge of firearms.
- 11-604. Gambling.
- 11-605. Abandoned refrigerators, etc.
- 11-606. Caves, wells, cisterns, etc.
- 11-607. Posting notices, etc.
- 11-608. False emergency alarms.

11-601. 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 metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1979 Code, § 10-213)

11-602. Throwing missiles. It shall be unlawful for any person to throw maliciously 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. (1979 Code, § 10-214)

11-603. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits.

11-604. Gambling. (1) Gambling prohibited. It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing.

(2) Promotion of gambling. It shall be unlawful for any person to encourage, promote, aid, or assist the playing at any game, or the making of any bet or wager, for money or other valuable thing, or to possess, keep, or exhibit for the purpose of gambling, any gaming table, device, ticket, or any other gambling paraphernalia. (1979 Code, § 10-215 and 10-216)

11-605. 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. (1979 Code, § 10-221, modified)

11-606. 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. (1979 Code, § 10-228)

11-607. 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. (1979 Code, § 10-225)

11-608. False emergency alarms. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such an act. (1979 Code, § 10-217)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. FAIR HOUSING ORDINANCE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
 12-102. Modifications.
 12-103. Available in recorder's office.
 12-104. Violations.

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, sections 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the Standard Building Code², 1979 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. (1979 Code, § 4-101)

12-102. Modifications. Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the board of mayor and aldermen. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

code, mean such person as the board of mayor and aldermen has appointed or designated to administer and enforce the provisions of the building code. The schedule of permit fees set forth in appendix K is amended so that the fees to be collected shall be as follows:

(1) Residential construction (including public and semi-public uses):

The fee for any residential construction (including public and semi-public uses) shall be computed at 1 1/2¢ per square foot (for total floor area) or a minimum of \$10.00, whichever is greater.

(2) Commercial and industrial construction:

(a) The fee for any commercial or industrial construction up to 10,000 square feet shall be computed at 2¢ per square foot (for total floor area) or a minimum of \$10.00, whichever is greater.

(b) For commercial and industrial construction of over 10,000 square feet (total floor area), the fee shall be \$200.00 for the first ten thousand square feet plus 1 1/2¢ for each additional square foot.

(3) Miscellaneous construction (such as unattached accessory building and garages):

(a) Where the building does not cover 250 square feet, no fee shall be required, unless an inspection is necessary, in which case there shall be a \$5.00 fee.

(b) The fee for any miscellaneous construction of more than 250 square feet (total floor area) shall be computed at 1 1/2¢ per square foot.

(4) Existing buildings:

If, within any (12) month period, alterations or repairs costing in excess of (50) percent of the physical value of the building are made to an existing building, such buildings shall be made to conform with the requirements of this section for new buildings.

For the purpose of this section, physical value of a building shall be determined by the building inspector.

(5) Moving of building or structures:

For the moving of any building or structure, the fee shall be \$10.00.

Total floor area shall be defined as the area of all floors of a building, including finished attic, finished basements and covered porches.

The minimum fee for an inspection shall be \$5.00. Section 114 of the building code is hereby deleted. (1979 Code, § 4-102)

12-103. Available in recorder's office. Pursuant to the requirements of section 6-54-502 of the Tennessee Code Annotated, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1979 Code, § 4-103, modified)

12-104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted. (1979 Code, § 4-104)

CHAPTER 2

FAIR HOUSING ORDINANCE

SECTION

- 12-201. Policy
- 12-202. Definitions.
- 12-203. Unlawful practice.
- 12-204. Discrimination in the sale or rental of housing.
- 12-205. Discrimination in the financing of housing.
- 12-206. Discrimination in the provision of brokerage services.
- 12-207. Exemption.
- 12-208. Administration.
- 12-209. Education and conciliation.
- 12-210. Enforcement.
- 12-211. Investigations; subpoenas; giving of evidence.
- 12-212. Enforcement by private persons.

12-201. Policy. It is the policy of the Town of Whiteville, Tennessee, to provide, within constitutional limitations, for fair housing throughout the town. (1979 Code, § 4-201)

12-202. Definitions. (1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(5) "Discriminatory housing practice" means an act that is unlawful under sections 12-204, 12-205, or 12-206. (1979 Code, § 4-202)

12-203. Unlawful practice. Subject to the provisions of subsection (2) and section 12-207, the prohibitions against discrimination in the sale or rental of housing set forth in section 12-204 shall apply to:

- (1) All dwellings except as exempted by subsection (2).
- (2) Nothing in section 12-204 shall apply to:

(a) Any single-family house sold or rented by an owner: Provided, that such private individual owner does not own more than three such single-family houses at any one time: Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further, that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented (A) without the use of any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice of any advertisement or written notice in violation of section 12-204(3) of this ordinance, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(3) For the purposes of subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:

(a) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(b) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(c) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families. (1979 Code, § 4-203)

12-204. Discrimination in the sale or rental of housing. As made applicable by section 12-203 and except as exempted by sections 12-203(2) and 12-207, it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

(4) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin. (1979 Code, § 4-204)

12-205. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, That nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 12-203(2). (1979 Code, § 4-205)

12-206. Discrimination in the provision of brokerage services. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings,

or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, or national origin. (1979 Code, § 4-206)

12-207. Exemption. Nothing in this ordinance shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (1979 Code, § 4-207)

12-208. Administration. (1) The authority and responsibility for administering this act shall be in the Chief Executive Officer of the Town of Whiteville.

(2) The chief executive officer may delegate any of these functions, duties, and powers to employees of the town or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this ordinance. The chief executive officer shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the town, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this ordinance and shall cooperate with the chief executive officer to further such purposes. (1979 Code, § 4-208)

12-209. Education and conciliation. Immediately after the enactment of this ordinance, the chief executive officer shall commence such educational and conciliatory activities as will further the purposes of this ordinance. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this ordinance and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. (1979 Code, § 4-209)

12-210. Enforcement. (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the chief executive officer. Complaints shall be in writing and shall contain such information and be in such form as the chief executive officer requires. Upon receipt of such a complaint, the chief executive officer shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (3), the chief executive officer shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the chief executive officer decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this ordinance without the written consent of the persons concerned. Any employee of the chief executive officer who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

(2) A complaint under subsection (1) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the chief executive officer, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(3) If within thirty days after a complaint is filed with the chief executive officer, the chief executive officer has been unable to obtain voluntary compliance with this ordinance, the person aggrieved may, within thirty days thereafter, file a complaint with the secretary of the department of housing and urban development. The chief executive officer will assist in this filing.

(4) If the chief executive officer has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this ordinance, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such a practice or order such affirmative action as may be appropriate.

(5) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(6) Whenever an action filed by an individual shall come to trial, the chief executive officer shall immediately terminate all efforts to obtain voluntary compliance. (1979 Code, § 4-210)

12-211. Investigations; subpoenas; giving of evidence. (1) In conducting an investigation the chief executive officer shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statement of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the chief executive officer first complies with the provisions of the fourth amendment relating to unreasonable searches and seizures. The chief executive officer may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court for the district in which the investigation is taking place. The chief executive officer may administer oaths.

(2) Upon written application to the chief executive officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the chief executive officer to the same extent and subject to the same limitations as subpoenas issued by the chief executive officer himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(3) Witnesses summoned by subpoena of the chief executive officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States District Courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(4) Within five days after service of a subpoena upon any person, such person may petition the chief executive officer to revoke or modify the subpoena. The chief executive officer shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(5) In case of contumacy of refusal to obey a subpoena, the chief executive officer or other person at whose request it was issued may petition for

its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the chief executive officer shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the chief executive officer, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the chief executive officer pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(7) The town attorney shall conduct all litigation in which the chief executive officer participates as a party or as amicus pursuant to this ordinance. (1979 Code, § 4-211)

12-212. Enforcement by private persons. (1) The rights granted by sections 12-203, 12-204, 12-205 and 12-206 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought pursuant to this section or section 12-210(4) from time to time before bringing it to trial or renting dwellings; or

(2) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(a) participating, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organization or facilities described in subsection 15(a); or

(b) affording another person or class of persons opportunity or protection so to participate; or

(3) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account or race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 15(a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not

more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life. (1979 Code, § 4-212)

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.
- 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. 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

¹Municipal code references

Animals and fowls: title 10.

Littering streets, etc.: section 16-107.

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

Wastewater treatment: title 18, chapter 2.

town recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot.

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 board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

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

(a) A brief statement that the owner is in violation of section 13-104 of the Whiteville 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;

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.

(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

(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 board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the 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 Hardeman County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the 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 board of mayor and aldermen 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. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of order.
- 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 board of mayor and aldermen 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 insanitary, 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 Whiteville, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(2) "Governing body" shall mean the board of mayor and aldermen 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. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector.

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the 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 court 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: (1) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy or use; or (2) if the repair, alteration or improvement of said structure cannot be

made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

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 Hardeman 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 placed upon the tax rolls of the Town of Whiteville 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. 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 Hardeman 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 Whiteville 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 Whiteville; such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanness.

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

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

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. Junk and debris on private property prohibited.

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. (1979 Code, § 8-111)

13-302. Junk and debris on private property prohibited. It shall be unlawful for anyone to store junk cars and other junk materials and debris in yards of property owned or occupied by such person or persons.

If any such owner or occupant of such property shall fail to remove the junk car or other junk materials or debris ten (10) days after notice to do so, the town shall remove said junk and debris, and the expense of such removal shall be charged to the owner or occupant of the property. (1979 Code, § 8-112)

¹State law reference

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

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, section 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other three (3) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the three (3) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (1979 Code, § 11-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1979 Code, § 11-102)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Whiteville shall be governed by Ordinance Number 61, titled "Zoning Ordinance, Whiteville, Tennessee," and any amendments thereto.¹

¹Ordinance No. 61, and any amendments thereto, are published as separate documents and are of record in the office of the town recorder.

Ordinance No. 78, the town's Mobile Home Park Ordinance, also has not been included in this code but is of record in the recorder's office.

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

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

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. 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.

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.

- 15-111. Unauthorized traffic control signs, etc.
- 15-112. Presumption with respect to traffic control signs, etc.
- 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.

15-101. 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. (1979 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1979 Code, § 9-106)

15-103. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1979 Code, § 9-107)

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. (1979 Code, § 9-109)

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. (1979 Code, § 9-110)

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. (1979 Code, § 9-111)

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. (1979 Code, § 9-112)

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. (1979 Code, § 9-113)

15-110. General requirements for traffic control signs, etc. All traffic control signs, signals, markings, and devices shall conform to the latest revision

¹Municipal code reference

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

of the Manual on Uniform Traffic Control Devices for Streets and Highways,¹ published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the town. This section shall not be construed as being mandatory but is merely directive. (1979 Code, § 9-114)

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. (1979 Code, § 9-115)

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. (1979 Code, § 9-116)

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. (1979 Code, § 9-117)

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. (1979 Code, § 9-119)

¹This manual may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

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. (1979 Code, § 9-120)

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. (1979 Code, § 9-121)

15-118. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1979 Code, § 9-122)

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. (1979 Code, § 9-123)

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." (1979 Code, § 9-124)

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. (1979 Code, § 9-125)

15-122. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.

(1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

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

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

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

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

(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 Whiteville 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. Bicycle riding prohibited on certain sidewalks. It shall be unlawful for any person to ride a bicycle on any of the sidewalks of Main Street between Church and Cross Streets. (1979 Code, § 9-126)

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. (1979 Code, § 9-102)

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

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
section 15-501.

consequences of his reckless disregard for the safety of others. (1979 Code, § 9-103)

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. (1979 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1979 Code, § 9-105)

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. (1979 Code, § 9-201)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (1979 Code, § 9-202)

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 board of mayor and aldermen 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. (1979 Code, § 9-203)

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 (1979 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1979 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center lines of the two roadways. (1979 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1979 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1979 Code, § 9-305)

¹State law reference

Tennessee Code Annotated, sec. 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic control signals generally.
- 15-508. At flashing traffic control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, 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. (1979 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1979 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed. (1979 Code, § 9-403)

¹Municipal code reference

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

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1979 Code, § 9-404)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1979 Code, § 9-405)

15-507. At traffic control signals generally. Traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that generally a right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn shall not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the town at intersections which the town decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1979 Code, § 9-406)

15-508. At flashing traffic control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the town it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in section 15-504 of this code. (1979 Code, § 9-407)

15-509. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the town, such signals shall apply as follows:

(1) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing.

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1979 Code, § 9-408)

¹State law reference

Tennessee Code Annotated, section 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Parallel parking.
- 15-607. Presumption with respect to illegal parking.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within the Town of Whiteville shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1979 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1979 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1979 Code, § 9-503)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

- (1) On a sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection or within fifteen (15) feet thereof.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) Within a pedestrian crosswalk.
- (6) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance.
- (7) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (8) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (9) Upon any bridge.
- (10) Alongside any curb painted yellow or red by the town. (1979 Code, § 9-504)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone. (1979 Code, § 9-505)

15-606. Parallel parking. On those streets which have been signed or marked by the town for parallel parking, no person shall park or stand a vehicle other than parallel to the curb or edge of the street. (1979 Code, § 9-506)

15-607. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1979 Code, § 9-507)

CHAPTER 7

ENFORCEMENT

SECTION

15-701. Issuance of traffic citations.

15-702. Failure to obey citation.

15-703. Illegal parking.

15-704. Impoundment of vehicles.

15-705. Disposal of "abandoned motor vehicles."

15-706. Deposit of operator's or chauffeur's license in lieu of bond.

15-701. Issuance of traffic citations. 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 municipal 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. (1979 Code, § 9-601)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1979 Code, § 9-602)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation.

The offender may, within ten (10) days have the charge against him disposed of by paying to the recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant for his arrest is issued, his fine shall be five dollars (\$5.00). (1979 Code, § 9-603)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost shall be one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1979 Code, § 9-604)

15-705. Disposal of "abandoned motor vehicles." "Abandoned motor vehicles" as defined in section 55-16-103, Tennessee Code Annotated, shall be impounded and disposed of by the police department in accordance with the provisions of sections 55-16-103 through 55-16-109, Tennessee Code Annotated. (1979 Code, § 9-605)

15-706. Deposit of operator's or chauffeur's license in lieu of bond. Pursuant to section 55-7-401, Tennessee Code Annotated, whenever any person lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Department of Safety, State of Tennessee, 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 a violation of any municipal ordinance regulating traffic, except those ordinances the violation of which call for the mandatory revocation of an operator's or chauffeur's license for any period of time, said 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 municipal court in answer to any such charge before said court.

Whenever any person hereof deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as hereinabove described, shall issue said person a receipt for said license upon a form approved by the Department of Safety, and thereafter said 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.

All town officers and employees shall comply fully with the requirements of section 59-730, Tennessee Code Annotated, and any implementing orders of the Department of Safety, State of Tennessee. (1979 Code, § 9-606)

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Street names.

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. (1979 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1979 Code, § 12-102)

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

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. (1979 Code, § 12-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code. (1979 Code, § 12-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1979 Code, § 12-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1979 Code, § 12-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1979 Code, § 12-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1979 Code, § 12-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1979 Code, § 12-109)

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be

unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1979 Code, § 12-110)

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1979 Code, § 12-111)

16-112. 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. (1979 Code, § 12-112)

16-113. Street names. (1) There is hereby established an official system of street names in the Town of Whiteville as shown on the map entitled Whiteville Base Map dated August 17, 1981, as produced by the municipal planning commission, a copy of which is attached to and made part of this ordinance as recorded in the minute book.

(2) Names of streets in the Town of Whiteville shall remain as shown on said map unless officially changed by specific ordinance passed subsequent to this date.

(3) No new streets shall be accepted by the town nor municipal improvements made therein until such streets have been named; if they are extensions of existing streets, the existing names shall be continued, and if not extensions, names recorded shall not duplicate or closely approximate street names already assigned. (1979 Code, § 12-113)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business and said permit shall be retroactive to the date when the work was begun. (1979 Code, § 12-201)

16-202. Applications. Applications for such permits shall be made to the 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

¹Sections 16-201 through 16-209 in this chapter were taken substantially from the ordinance upheld by the Tennessee Supreme Court in the 1960 case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S. W. 2d 885.

agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1979 Code, § 12-202)

16-203. Fee. The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$0.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1979 Code, § 12-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the said 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 recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1979 Code, § 12-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1979 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in the Town of Whiteville shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town but shall be paid for 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 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. (1979 Code, § 12-206)

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 recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1979 Code, § 12-207)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the 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 recorder. (1979 Code, § 12-208)

16-209. Supervision. The recorder 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. (1979 Code, § 12-209)

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 recorder. 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 into the street. (1979 Code, § 12-210)

TITLE 17

REFUSE AND TRASH DISPOSAL

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. Collection exclusively city function.
- 17-110. Service fees for collection, removal, disposal.
- 17-111. Billing of service fee.
- 17-112. Exceptions.
- 17-113. Violations.

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. (1979 Code, § 8-201)

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. (1979 Code, § 8-202)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within the Town of Whiteville 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 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. (1979 Code, § 8-203)

17-104. Location of containers. Where alleys are used by the municipal 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 travelled portion of the alley. Where streets are used by the municipal refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there 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. (1979 Code, § 8-204)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1979 Code, § 8-205)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the board of mayor and aldermen shall designate. Collections shall be made regularly in accordance with an announced schedule. (1979 Code, § 8-206)

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. (1979 Code, § 8-207)

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. (1979 Code, § 8-208)

17-109. Collection exclusive city function. Except as otherwise herein provided only the city shall engage in the business of collection, removing or disposing of refuse within the corporate limits. The city may provide such service either with its own forces or by contractors. (1979 Code, § 8-209)

17-110. Service fees for collection, removal, and disposal. The following monthly fees are established for the collection, removal and disposal of refuse:

Residential units, including single family and multi-family dwellings	\$5.00
Commercial businesses and other non-residential purposes:	

Monthly usage	Monthly fees
0-32 cubic feet	\$9.00
33-100 cubic feet	\$16.50

(1979 Code, § 8-210)

17-111. Billing of service fee. The service fee for collection, removal, and disposal of refuse by the city shall be included as a separate item each month on the bills rendered by the city for water service. Said charges shall be rendered on the first water bill sent on and after April 1, 1982, and for each month thereafter. The accounts shall be paid monthly at the same time water bills are paid.

The accounts will become delinquent by failure to pay the refuse service fee by the delinquency date prescribed for the water bill. Delinquent refuse service fees shall be processed and collected in accordance to the rules and procedures applicable to other service fees of the city or by other procedures established by the board of mayor and aldermen.

When service commences or ceases, applicable fees may be prorated. If water services shall be supplied to a location the occupant or tenant of which has vacated said premises, and the city is satisfied that there has been a termination of the need for refuse collection, then the city, on application of the owner or agent therefor, may suspend liability for such fees, and said fees shall be reinstated with the next water bill rendered to an occupant or tenant of the premises.

In the case of premises containing more than one dwelling unit or place of business, and each is billed separately for water by the city, such fees shall be billed to each person in possession, charge, or control who is a water customer of the city. In the case of premises containing more than one dwelling unit or place of business which are served through a single water meter, so the occupants or tenants cannot be billed separately by the city, the customer responsible for the water bill shall be liable for the refuse service fees for the premises. (1979 Code, § 8-211)

17-112. Exceptions. Nothing in this ordinance shall prevent any refuse producer from collecting, removing, and disposing of his own refuse, provided he does so in such manner as not to create a nuisance and provided further that he disposes such refuse at a site or sites approved by the city. (1979 Code, § 8-212)

17-113. Violations. Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause of this code. (1979 Code, § 8-213)

TITLE 18

WATER AND SEWERS¹

CHAPTER

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

CHAPTER 1

WATER AND SEWER SYSTEM ADMINISTRATION

SECTION

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Connection charges.
- 18-107. Application and scope.
- 18-108. Annual review and notification.
- 18-109. Charges for operation and maintenance of infiltration/inflow.
- 18-110. Water and sewer main extensions.
- 18-111. Variances from and effect of preceding section as to extensions.
- 18-112. Meters.
- 18-113. Meter tests.
- 18-114. Schedule of rates.
- 18-115. Multiple services through a single meter.
- 18-116. Billing.
- 18-117. Discontinuance or refusal of service.
- 18-118. Re-connection charge.
- 18-119. Termination of service by customer.
- 18-120. Access to customers' premises.
- 18-121. Inspections.
- 18-122. Customers' responsibility for system's property.
- 18-223. Customer's responsibility for violations.
- 18-224. Supply and resale of water.

¹Municipal code references

Building, utility and housing codes: title 12

Refuse disposal: title 17

- 18-125. Unauthorized use of or interference with water supply.
- 18-126. Damages to property due to water pressure.
- 18-127. Liability for cutoff failures.
- 18-128. Restricted use of water.
- 18-129. Interruption of service.

18-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the town and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. All provisions of this chapter shall equally apply to water customers receiving service beyond the corporate limits. (1979 Code, § 13-101)

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) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" shall consist of the pipe line extending from any water 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.

(4) "Discount date" shall mean the last date upon which water and or sewer bills can be paid at net rates. This shall be the fifteenth (15th) day of the month in which the bill is mailed, except when some other date is provided by contract.

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

(6) "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. (1979 Code, § 13-102)

18-103. Obtaining service. A formal application for either original or additional service must be made and be approved by the town before connection or meter installation orders will be issued and work performed.

A water meter deposit of \$50.00 will be collected from each applicant. All deposits collected shall be returned when service, is discontinued, provided all bills of the water customer have been paid in full. (as replaced by Ord. # 88)

18-104. Application and contract for service. Each prospective customer desiring water and/or sewer service will be required to sign a standard form of contract before service is supplied. 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 said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the town to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liability of the town to the applicant shall be limited to the return of any deposit made by such applicant. (1979 Code, § 13-104)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1979 Code, § 13-105)

18-106. Connection charges. Before a new water or service line will be laid by the town, the applicant shall make a deposit of one hundred dollars (\$100.00) for each water tap and/or one hundred dollars (\$100.00) for each sewer tap.

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. (1979 Code, § 13-106)

18-107. Application and scope. The provisions of this chapter are in response to requirement item # 3 of Section 1200-22-2-.08 of the rules and regulations of the Tennessee Department of Health and Environment, which requires a recipient of a State Grant to adopt a user charge system. The user charge system shall provide that each user which discharges pollutants that cause an increase in the cost of managing the effluent from the wastewater treatment facility shall pay for such increased cost. The user charge system must be designed to produce adequate revenues to provide for the following expenditures:

- (1) Operation and maintenance expenses.
 - (2) Debt retirement.
 - (3) Replacement of the wastewater treatment works over its useful life.
- (Ord. # 92, § 1)

18-108. Annual review and notification. The town will review annually the wastewater contribution of users, user classes, the total costs of operation and maintenance of the treatment works, and its approved user charge system.

The town will revise the charges for users or user classes to accomplish the following:

- (1) Maintain the proportionate distribution of operation and user classes; and
- (2) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation, maintenance, and replacement of the treatment works.

Each user will be notified annually in conjunction with a regular bill of the rate and that portion of the user charge that is attributable to wastewater treatment services. (Ord. # 92, § 2)

18-109. Charges for operation and maintenance of infiltration/inflow. The cost of operation and maintenance for all flow not directly attributable to a user or users shall be distributed among all users based on the flow volume of the user. Flow volume shall be determined by water meter records unless the user elects to install at its own cost a sewer flow meter. The flow meter shall meet the town's approval prior to installation of the meter. Maintaining the meter shall be the sole responsibility of the user. (Ord. # 92, § 3)

18-110. Water and sewer main extensions. Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

For water main extensions cement-lined cast iron pipe, class 150 American Water Works Association Standard (or other construction approved by the board of mayor and aldermen), not less than six (6) inches in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 1,000 feet from the most distant part of any dwelling structure and no farther than 600 feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances; cement-lined cast iron pipe (or other construction approved by the board of mayor and aldermen) two (2) inches in diameter, to supply dwellings only, may be used to supplement such lines. For sewer main extensions eight-inch pipe of vitrified clay or other construction approved by the board of mayor and aldermen shall be used.

All such extensions shall be installed either by municipal 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 said mains. (1979 Code, § 13-107)

18-111. Variances from and effect of preceding section as to extensions. Whenever the board of mayor and aldermen 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 board of mayor and aldermen.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the town to make such extensions or to furnish service to any person or persons. (1979 Code, § 13-108)

18-112. 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 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. (1979 Code, § 13-109)

18-113. 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 requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

<u>Meter Size</u>	<u>Test Charge</u>
5/8", 3/4", 1"	\$ 2.00
1-1/2", 2"	5.00
3"	8.00
4"	12.00
6" and over	20.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the town. (1979 Code, § 13-110)

18-114. 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 (1979 Code, § 13-111)

18-115. Multiple services through a single meter. No customer shall supply water or sewer 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/or sewer 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 rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1979 Code, § 13-112)

18-116. Billing. Bills for residential water and sewer service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semi-monthly, or monthly, at the option of the town.

Both charges shall be collected as a unit; no municipal employee shall accept payment of water service charges from any customer without receiving

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

at the same time payment of all sewer service charges owed by such customer. Water service may be discontinued for non-payment of the combined bill.

Water and sewer bills must be paid on or before the discount date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before five (5) days after the discount date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service may be discontinued without further notice if the bill is not paid on or before ten (10) days after the discount date. The town shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the town if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the town reserves the right to render an estimated bill based on the best information available. (1979 Code, § 13-113)

18-117. Discontinuance or refusal of service. The town shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the town for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1979 Code, § 13-114)

18-118. Re-connection charge. Whenever service has been discontinued as provided for above, a re-connection charge of five dollars (\$5.00) shall be collected by the town before service is restored. (1979 Code, § 13-115)

18-119. 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 such ten (10) day period.

(2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the 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. (1979 Code, § 13-116)

18-120. 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. (1979 Code, § 13-117)

18-121. 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 meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the 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. (1979 Code, § 13-118)

18-122. 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 properly to care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1979 Code, § 13-119)

18-123. 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. (1979 Code, § 13-120)

18-124. 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. (1979 Code, § 13-121)

18-125. 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. (1979 Code, § 13-122)

18-126. 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. (1979 Code, § 13-123)

18-127. 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 a 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. (1979 Code, § 13-124)

18-128. 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. (1979 Code, § 13-125)

18-129. 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 town 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. (1979 Code, § 13-126)

CHAPTER 2

WASTEWATER REGULATIONS

SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Connection to public sewers.
- 18-204. Private domestic wastewater disposal.
- 18-205. Regulation of holding tank waste disposal.
- 18-206. Application for domestic wastewater discharge and industrial wastewater discharge permit.
- 18-207. Discharge regulations.
- 18-208. Industrial user monitoring, inspection reports, records access, and safety.
- 18-209. Enforcement and abatement.
- 18-210. Penalties; costs.
- 18-211. Fees and billing.
- 18-212. Validity.

18-201. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the Town of Whiteville, Tennessee, wastewater treatment system. The objectives of this chapter are:

- (1) To protect the public health;
- (2) To provide problem free wastewater collection and treatment service;
- (3) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system's operation, will cause the town's discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements or will cause physical damage to the wastewater treatment system;
- (4) To provide for full and equitable distribution of the cost of the wastewater treatment system;
- (5) To enable the Town of Whiteville to comply with the provisions of the Federal Clean Water Act, the General Pretreatment Regulations (40 CFR Part 403), and other applicable federal and state laws and regulations;
- (6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of the Town of Whiteville must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private

disposal system. The chapter also provides for the issuance of permits to system users, for the regulation of wastewater discharge volume and characteristics for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the Town of Whiteville, Tennessee, and to persons outside the town who are, by contract or agreement with the town, users of the municipal wastewater treatment system, Except as otherwise provided herein the water and sewer superintendent of the Town of Whiteville shall administer, implement, and enforce the provisions of this chapter. (Ord. # 89, § 1)

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: (1) a principal executive officer of at least the level of vice-president, if the industrial user is a corporation; (2) a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; (3) 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, five (5) days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(5) "Building sewer" - A sewer conveying wastewater from the premises of a user to the publicly owned treatment works.

(6) "Categorical standards" National Categorical Pretreatment Standards or Pretreatment Standard.

(7) "Compatible pollutant" - Shall mean BOD, suspended solids, pH, and fecal coliform bacteria, and such additional pollutants as are now or may be in the future specified and controlled in this town's NPDES permit for its wastewater treatment works where sewer works have been designated and used to reduce or remove such pollutants.

(8) "Cooling water" - The water discharged 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) "Customer" - Means any individual, partnership, corporation, association, or group who receives sewer service from the town under either an express or implied contract requiring payment to the town for such service.

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

(12) "Domestic wastewater" - Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent containing sanitary facilities for the disposal of wastewater and used for residential purposes only.

(13) "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.

(14) "Garbage" - Shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(15) "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.

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

(17) "Incompatible pollutant" - shall mean any pollutant which is not a "compatible pollutant" as defined in this section.

(18) "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).

(19) "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).

(20) "Interference" - The inhibition or disruption of the municipal wastewater 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 municipal wastewater treatment system.

(21) "National Categorical Pretreatment Standards 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.

(22) "NPDES (Natural Pollutant Discharge Elimination System)" - Shall mean the program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Federal Water Pollution Control Act as amended.

(23) "New source" - Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal 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.

(24) "Person" - Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

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

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

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

(28) "Pretreatment or treatment" - The reduction of the amount of pollutants, the elimination of pollutants, or the alternation of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alternation can be obtained by physical, chemical, or biological processes, or process changes by other means, except as prohibited by 40 CFR section 40.36(d).

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

(30) "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 purpose 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.

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

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

(33) "Slug" - Shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent, or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

(34) "State" - State of Tennessee.

(35) "Standard Industrial Classification (SIC)" - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Officer of Management and Budget, 1972.

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

(37) "Storm sewer" or "storm drain" - Shall mean a pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes; it may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(38) "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.

(39) "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 section, or his duly authorized representative.

(40) "Town" - The Town of Whiteville or the board of mayor and aldermen, Town of Whiteville, Tennessee.

(41) "Toxic pollutant" - Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA (307(a)) or other Acts.

(42) "Twenty-four (24) hour flow proportional composite sample" - A sample consisting of several sample portions collected during a 24-hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

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

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

(45) "Wastewater treatment systems" - Defined the same as POTW.

(46) "Waters of the state" - All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof. (Ord. 89, § 2)

18-203. Connection to public sewers. (1) Requirements for proper wastewater disposal. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the Town of Whiteville, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any waters of the state within the service area of the Town of Whiteville any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(c) Except as hereinafter provided, it shall be unlawful to construct any privately owned and operated facility or system for sewage treatment and disposal.

(d) Except as provided in section 18-203(1)(e) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer in the service area, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sanitary sewer in accordance with the provisions of this chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the building drain as defined herein.

(e) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes or regulations.

(f) Where a public sanitary sewer is not available under the provisions of section 18-203(1)(d), the building sewer shall be connected to a private sewage disposal system complying with the provisions of section 18-204 of this chapter.

(2) Physical connection to public sanitary sewers. (a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sanitary sewer or appurtenance thereof without first obtaining a written permit from the superintendent as required by section 18-206 of this chapter.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Provided, however, that in no case shall the building sewer from the front building to the public sanitary sewer be less than six (6) inches in diameter.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others must be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(1) The minimum size of a building sewer shall be four (4) inches.

(2) The minimum depth of a building sewer shall be eighteen (18) inches.

(3) Four (4) inch building sewers shall be laid on a grade greater than 1/8 inch per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

(4) All building sewers shall be constructed on a straight alignment and constant grade from the building drain to the public sanitary sewer, or in between cleanouts.

(5) Building sewers shall be constructed only of (1) concrete or clay sewer pipe using rubber or neoprene compression joints of approved type; (2) cast iron soil pipe with leaded or compression joints; (3) polyvinyl chloride pipe with solvent welded or with rubber compression joints; (4) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or (5) such other materials of equal or superior quality as may be approved by the superintendent. Under no circumstances will cement mortar joints be accepted.

(6) A cleanout shall be located five feet outside of the building on the building sewer and where it connects with the public sanitary sewer system. Also, cleanouts shall be placed at each change of direction, each change of grade, and intervals not greater than 75 feet apart on building sewers of 4 inch nominal diameter, and not more than 100 feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level of the ground directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches in diameter.

(7) Connections of building sewers to the public sanitary sewer system shall be made at the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where an existing wye or tee branches are not available, connections of building sewers shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or cutting a clean opening in the existing public sanitary sewer and installing a tee-saddle or tee-insert of a type approved by the superintendent. All such connections shall be made gastight and watertight.

(8) In cases where the building sewer, when extended to the building drain from the public sanitary sewer in accordance with the grades specified above, and the end of the building sewer is above the building drain; the sanitary sewage from the building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner. Also, at the expense of the owner, shall be provided check valves or other backflow prevention devices to protect the building from flooding from the public sanitary sewer.

(9) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the

construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(10) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(3) Inspection of connections. (a) The sewer connection and all of the building sewer from the building to the public sanitary sewer shall be inspected by the superintendent or his authorized representative before the underground portion is covered.

(b) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sanitary sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on his private property. This maintenance will include repair or replacement of the building sewer as deemed necessary by the superintendent to meet the town's requirements. (Ord. 89, § 3)

18-204. Private domestic wastewater disposal. (1) Availability. Where a public sewer is not available under the provisions of section 18-203(1)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section. Provided, however, that when a public sanitary sewer becomes available, the building sewer shall be connected to said sewers within sixty (60) days after date of official notice to do so.

(2) Requirements. (a) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the superintendent stating that a public sewer is not accessible to the property and no such sewer is proposed for

construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than one-half (1/2) acre.

(b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the superintendent. The owner shall supply any plans, specifications, and other information as are deemed necessary.

(c) A private sewage disposal system shall not be placed in operation until the operation is completed to the satisfaction of the superintendent. He or his representative shall be allowed to inspect the work at any stage of construction and; in any event, the owner shall notify the superintendent when the work is ready for the final inspection, and before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of Tennessee. No private sewage disposal system shall be permitted to discharge to any natural outlet.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.

(f) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Town of Whiteville. (Ord. 89, § 4)

18-205. Regulation of holding tank waste disposal. (1) Permit. No person, firm, association, or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the superintendent to perform such acts or services. Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter, an annual service charge therefor shall be paid to the town to be set as specified in section 18-211. Any such permit granted shall be for one full fiscal year or fraction of the fiscal year, and shall continue in full force and effect from time issued until the ending of the fiscal year unless sooner revoked, and shall be

nontransferable. The number of the permit granted hereunder shall be plainly painted on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved location for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association, or corporation to empty or clean such equipment at any place other than a place so designated.

(4) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the Town of Whiteville. (Ord. 89, § 5)

18-206. Application for domestic wastewater discharge and industrial wastewater discharge permit. (1) Applications for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the superintendent for written authorization to discharge to the POTW. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the public sanitary sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with section 18-203 of this chapter, and an inspection has been performed by the superintendent or his representative.

The receipt by the town of a prospective customer's application for service shall not obligate the town to render the service. If the service applied for cannot be supplied in accordance with this chapter and the town's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the town to the applicant for such service, except that conditional waivers for additional services may be granted by the superintendent for interim periods if compliance may be assured within a reasonable period of time.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall within 180 days after the effective date of this chapter meet all requirements of the chapter.

(b) Applications for wastewater discharge permits shall be required as follows:

(1) Users required to obtain a wastewater discharge permit shall complete and file with the superintendent an application in the form prescribed by the superintendent, and accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within 60 days after the effective date of this chapter, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW.

(2) The application shall be in the prescribed form for the town and shall include, but not be limited to the following information: name, address and SIC number of applicant; wastewater volume; wastewater constituents and characteristics; discharge variations - daily, monthly, seasonal and 30 minute peaks; a description of all toxic materials handled on the premises; site plans, floor plans, mechanical and plumbing plans, and details showing all sewers and appurtenances by size, location, and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the superintendent.

(3) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the superintendent for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter.

(4) If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date of this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by section 18-207 of this chapter.

(5) 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 discharge permit subject to terms and conditions provided herein.

(6) The receipt by the town of a prospective customer's application for wastewater discharge permit shall not obligate the town to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the town's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the town to the applicant for such service.

(7) The superintendent will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the superintendent that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the superintendent, the superintendent shall submit the application to the mayor with a recommendation that it be denied and notify the applicant in writing of such action.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the 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 and equalization;

(4) Requirements for installation and maintenance of inspections and sampling facilities;

(5) Specifications for monitoring programs which may include sampling locations, frequency of 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 related to wastewater discharge as specified by the town, and affording town access thereto;

(9) Requirements for notification of the town of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(10) Requirements for notification of slug discharged;

(11) Other conditions as deemed appropriate by the town to ensure compliance with this chapter.

(d) Permit modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standard shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by section 18-206(2)(b)(2) and 18-206(2)(b)(3). The terms and conditions of the permit may be subject to modification by the superintendent during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for causes including, but not limited to, the following:

(1) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(2) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(4) Intentional failure of the user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaire permit application, permits and monitoring programs and from inspections shall be available to the public or any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the superintendent that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for uses; related to this chapter or the town's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the superintendent as confidential shall not be transmitted to any governmental agency or to the general public by the superintendent until and unless prior and adequate notification is given to the user. (Ord. 89, § 6)

18-207. Discharge regulations. (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over twenty percent (20%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include,

but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, 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 system such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(c) Any wastewater having a pH less than 5.0 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(d) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters 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 or would require unusual maintenance and repair to the POTW.

(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 or reuse or to interfere with the reclamation process. In no case, shall a substance discharge 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, or state criteria applicable to the sludge management method being used.

(g) Any substance which will cause the POTW to violate the NPDES permit or the receiving water quality standards.

(h) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees C. (104 degrees F.).

(j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

(k) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(l) Any wastewater containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(m) Any wastewater which causes a hazard to human life or creates a public nuisance.

(n) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) or one hundred fifty (150) degrees F. (0 and 65 degrees C.).

(o) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Public Health. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Public Health, to a storm sewer or natural outlet.

(2) Protection of treatment plant influent. The superintendent shall monitor the treatment works influent for each parameter in the following table. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the POTW reaches or exceeds the levels established by this table, the superintendent shall initiate technical studies, involving the appropriate offices of the Tennessee Department of Public Health, to determine the cause of the influent violation and shall recommend to the town the necessary remedial

measures, including but not limited to, the establishment of new or revised pretreatment levels for these parameters. The superintendent shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

Plant Protection Criteria

Parameter	Maximum Concentration (mg/l) (24 Hour Flow) Proportional Composite Sample	Maximum Instantaneous Concentration (mg/l) (Grab Sample)
Aluminum dissolved (Al)	3.00	6.0
Antimony (Sb)	0.50	1.0
Arsenic (As)	0.06	0.12
Barium (Ba)	2.50	5.0
Boron (B)	0.4	0.8
Cadmium (Cd)	0.004	0.008
Chromium Hex	0.06	0.12
Cobalt (Co)	0.03	0.06
Copper (Cu)	0.16	0.32
Cyanide (CN)	0.03	0.06
Fluoride (F)	0.6	1.2
Iron (Fe)	3.0	6.0
Lead (Pb)	0.10	0.2
Manganese (Mn)	0.1	0.2
Mercury (Hg)	0.025	0.05
Nickel (Ni)	0.15	0.30
Pesticides & Herbicides	.001	.002
Phenols	1.00	2.0
Selenium (Se)	0.01	0.02
Silver (Ag)	0.05	0.1
Sulfide	25.0	40.0
Zinc (Zn)	0.3	0.6
Total Kjeldahl Nitrogen (TKN)	45.00	90.00
Oil & Grease	50.00	100.00
MBAS	5.00	10.0
BOD	*	
COD	*	
Suspended Solids	*	

*Not to exceed the design capacity of treatment works.

BDL = Below Detectable Limits

(3) Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under the chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12.

(4) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the superintendent from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use of handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Public Health and/or the United States Environmental Protection Agency.

(5) Special agreements. Nothing in this section shall be construed so as to prevent any special agreement or arrangement between the town and any user of the wastewater treatment system whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable. The making of such special agreements or arrangements between the town and the user shall be strictly limited to the capability of the POTW to handle such wastes without interfering with unit operations or sludge use and handling or allowing the pass through of pollutants which would result in a violation of the NPDES permit. No special agreement or arrangement may be made without documentation by the industry of the user of good management practice in the reduction of wastewater volume and strength.

(6) Exceptions to discharge criteria.

(a) Application for exception. Non-residential users of the POTW may apply for a temporary exception to the prohibited and restricted wastewater discharge criteria list in section 18-207(1) and 18-207(2) of this chapter. Exceptions can be granted according to the following guidelines.

The superintendent shall allow applications for temporary exceptions at any time. However, the superintendent shall not accept an application if the applicant has submitted the same or substantially similar application within the preceding year and the same has been denied by the town.

All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered by the town in its review of the application.

(b) Conditions. All exceptions granted under this paragraph shall be temporary and subject to revocation at any time by the superintendent upon reasonable notice.

The user requesting the exception must demonstrate to the superintendent that he is making a concentrated and serious effort to maintain high standards of operation control and housekeeping levels, etc., so that discharges to the POTW are being minimized. If negligence is found, permits will be subject to termination. The user requesting the exception must demonstrate that compliance with stated concentration and quantity standards is technically or economically infeasible and the discharge, if excepted, will not:

(1) Interfere with the normal collection and operation of the wastewater treatment system.

(2) Limit the sludge management alternatives available or increase the cost of providing adequate sludge treatment.

(3) Pass through the POTW in quantities and/or concentrations that would cause the POTW to violate its NPDES permit.

The user must show that the exception, if granted, will not cause the discharger to violate its enforced federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment regulations.

A surcharge shall be applied to any exception granted under this subsection. These surcharges shall be applied for that concentration of the pollutant for which the variance has been granted in excess of the concentration stipulated in this chapter based on the average daily flow of the user.

(c) Review of application by the superintendent. All applications for an exception shall be reviewed by the superintendent. If the application does not contain sufficient information for complete evaluation, the superintendent shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the superintendent to correct such deficiencies. This thirty (30) day period may be extended by the town upon application, the superintendent shall evaluate same within thirty (30) days and shall submit his recommendations to the town at its next regularly scheduled meeting.

(d) Review of application by the town. The town shall review and evaluate all applications for exceptions and shall take into account the following factors:

(1) Whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than these in this chapter and grant an exception only if such exception may be granted within limitations of applicable federal regulations;

(2) Whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of section 307(a) of the Act (33 U.S.C. 1317), and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations;

(3) Whether or not the granting of an exception would create conditions that would reduce the effectiveness of the treatment works taking into consideration the concentration of said pollutant in the wastewater treatment system's influent and the design capability of the treatment system;

(4) The cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive costs alone shall not be the basis for granting an exception;

(5) The age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge;

(6) The process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge;

(7) The engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge.

(7) Accidental discharge. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this section from liquid or raw material storage areas, from truck or rail car loading and unloading areas, from implant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this section. The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of waste regulated by this chapter shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities, establishment of procedures which will prevent or minimize the potential for such accidental discharge. Facilities to prevent accidental discharge or prohibited materials shall be provided

and maintained at the user's expense. Detailed plans showing the facilities and operating procedures shall be submitted to the superintendent before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge. Any person causing or suffering from any accidental discharge shall immediately notify the superintendent (or his designated official) by telephone to enable countermeasures to be taken by the superintendent to minimize damages to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification will not relieve the user of liability for any expense loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedures. (Ord. 89, § 7)

18-208. Industrial user monitoring, inspection reports, records access, and safety. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users having wastes which receive pretreatment, are otherwise altered or regulated before discharge, or are unusually strong and thereby subject to a surcharge. Monitoring facility shall be a manhole or other suitable facility approved by the superintendent.

When, in the judgement of the superintendent, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the superintendent may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the superintendent, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The superintendent may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parking vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the superintendent's requirements and all applicable local agency construction standards and specifications. When, in the judgement of the superintendent, a monitoring facility is required, he shall notify the user in writing. Construction must be completed within 180 days following written notification unless an extension is granted by the superintendent.

(2) Inspection and sampling. The 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 purpose of inspection, sampling, records examination or in the performance of any of their duties. The town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility. The superintendent or his representative shall have no authority to inquire into any manufacturing process beyond that point having a direct bearing on the level and sources of discharge to the sewers, waterways, or facilities for waste treatment.

(3) Compliance date report. Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such

pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(4) Periodic compliance reports. (a) Any user subject to a pretreatment standard after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted.

(b) The superintendent may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(c) The reports by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment 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 superintendent.

Sampling shall be performed in accordance with the techniques approved by the superintendent.

(5) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

(a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;

(b) The dates analyses were performed;

- (c) Who performed the analyses;
- (d) The analytical techniques/methods used; and
- (e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the superintendent, director of the division of water quality control, Tennessee Department of Public Health, or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the superintendent, the approval authority, or the Environmental Protection Agency.

(6) Safety. While performing the necessary work on private properties, the superintendent or duly authorized employees of the town shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the town employees and the town shall indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions. (Ord. 89, § 8)

18-209. Enforcement and abatement. (1) Issuance of cease and desist orders. When the superintendent finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the superintendent shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:

- (a) Comply forthwith;
- (b) Comply in accordance with a time schedule set forth by the superintendent;
- (c) Take appropriate remedial or preventive action in the event of a threatened violation; or
- (d) Surrender his applicable user's permit if ordered to do so after a show cause hearing.

Failure of the superintendent to issue a cease and desist order to a violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

(2) Submission of time. When the superintendent finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations of pretreatment standards, or the provisions

of a wastewater discharge permit, the superintendent shall require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specifications, which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the superintendent within 30 days of issuance of the cease and desist order.

(3) Show causing hearing. (a) The town may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the board of mayor and aldermen why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the board of mayor and aldermen regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the board of mayor and aldermen why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

(b) The board of mayor and aldermen may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the water and sewer department to:

(1) Issue in the name of the board of mayor and aldermen notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(2) Take the evidence;

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board for action thereon.

(c) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(d) After the board of mayor and aldermen has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(4) Legal action. If any person discharges sewage, industrial wastes, or other wastes into the town's POTW 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 chancery court of this county.

(5) Emergency termination of service. In the event of an actual or threatened discharge to the POTW of any pollutant which in the opinion of the superintendent presents or may present an imminent and substantial endangerment to the health or welfare of persons, or cause interferences with POTW, the superintendent, or in his absence the person then in charge of the treatment system, shall immediately notify the mayor of the nature of the emergency. The superintendent shall also attempt to notify the industrial user or other person causing the emergency and request their assistance in abating same.

Following consultation with the aforementioned officials of the town or in their absence such elected officials of the town as may be available, the superintendent shall temporarily terminate the service of such user or users as are necessary to abate the condition when such action appears reasonably necessary. Such service shall be restored by the superintendent as soon as the emergency situation has been abated or corrected.

(6) Public nuisance. Discharges of wastewater in any manner in violation of this chapter or of any order issued by the superintendent as authorized by this chapter, is hereby declared a public nuisance and shall be corrected or abated as directed by the superintendent. Any person creating a public nuisance shall be subject to the provisions of the town codes or ordinances governing such nuisance.

(7) Correction of violation and collection of costs. In order to enforce the provisions of this chapter, the superintendent shall correct any violation hereof. The cost of such correction shall be added to any sewer service charge payable by the person violating the chapter or the owner or tenant of the property upon which the violation occurred, and the town shall have such remedies for the collection of such costs as it has for the collection of sewer service charges.

(8) Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to the POTW, the superintendent shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge.

(9) Civil liabilities. Any person or user who intentionally or negligently violates any provision of this chapter, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard or performance, pretreatment, or toxicity standard, shall be liable civilly.

The Town of Whiteville shall sue for such damage in any court of competent jurisdiction. In determining the damages, the court shall take into

consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and erecting action, if any. (Ord. 89, § 9)

18-210. Penalty; costs. (1) Civil penalties. Any user who is found to have violated an order of the board of mayor and aldermen or who willfully or negligently failed to comply with any provision of this chapter, and the order, rules, regulations, and permits issued hereunder, shall be fined not less than fifty and 00/100 dollars (\$50.00) for each offense.

Each day of which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the town may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit of law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder.

(2) Falsifying information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall upon conviction be punished by a fine of not more than fifty dollars (\$50.00). (Ord. 89, § 10)

18-111. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from user's of the town's wastewater treatment system, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the town's schedule of charges and fees, may include, but not be limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees;
- (e) Industrial wastewater discharge permit fees;
- (f) Fees for industrial discharge monitoring; and
- (g) Other fees as the town may deem necessary to carry out the

requirements of this chapter.

(3) Fees for applications for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by section 18-206 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping lee for the building sewer installation shall be paid to the town's sewer department in the time the application is filed. Fees shall cover the costs of inspecting new and/or existing plumbing within subject building establishments as well as inspection of building sewers, property sewers, and sewer service lines and connections to the public sewers. The inspection fee and tapping fee shall be set by the board of mayor and aldermen.

(5) Sewer user charges. (a) Classification of users. Users of the wastewater system shall be classified into two (2) general classes or categories depending upon the user's contribution of wastewater loads; each class user being identified as follows:

(1) Class I: Those users whose average biochemical oxygen demand is two hundred fifty milligrams per liter (250 mg/l) by weight or less, and whose suspended solids discharge is two hundred fifty milligrams per liter (250 mg/l) by weight or less.

(2) Class II: Those users whose average biochemical oxygen demand exceeds two hundred fifty milligrams per liter concentration (250 mg/l) by weight and whose suspended solids exceeds two hundred fifty milligrams per liter concentration (250 mg/l).

(b) Determination of costs. The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system. Said charges shall be based upon the cost categories of administration costs, including billing and accounting costs; operation and maintenance costs of the wastewater collection and treatment system; and debt service costs.

(1) All users who fall under Class I pay a single unit charge expressed as dollars per 1,000 gallons of water purchased (\$/1,000 gallons) with the unit charge being determined in accordance with the following formula:

$$\text{Monthly Bill} = \frac{A - (B \times C)}{D - (E \times F)} + C$$

Where:

A	=	Monthly revenue required
B	=	Total no. of users
C	=	Monthly minimum bill
D	=	Total gallons used by all users excluding Minimum users

E	=	No. of minimum users
F	=	Maximum no. of gallons in minimum range

(2) All users who fall within the Class II classification shall all pay the same base unit charge per 1,000 gallons of water purchased as for the Class I users and in addition shall pay a surcharge rate on the excessive amounts of biochemical oxygen demand and suspended solids in direct proportion to the actual discharge quantities.

(3) The volume of water purchased which is used in the calculation of sewer user charges may be adjusted by the superintendent if a user purchases a significant volume of water for a consumptive use and does not discharge it to the public sewers (i.e. filling swimming pools, industrial heating, and humidifying equipment, etc.). The user shall be responsible for documenting the quantity of waste discharged to the public sewer.

(4) When either or both the total suspended solids or biochemical oxygen demand quantities discharged into the POTW is in excess of those described in section (5)(a), above, thus being classified as Class II users, the following formula shall be used to compute the appropriate user charge:

$$C_u = V_c V_u + B_c B_u + S_c S_u$$

Where:

C_u	=	Total user charge per unit of time.
V_c	=	Total cost for transportation and treatment of a unit of wastewater volume.
V_u	=	Volume contribution per unit of time.
B_c	=	Total cost for treatment of a unit of biochemical oxygen demand (BOD).
B_u	=	Total BOD contribution for a user per unit of time.
S_c	=	Total cost of treatment of a unit of suspended solids.
S_u	=	Total suspended solids contribution from a user per unit of time.

(6) Surcharge fees. If it is determined by the town that the discharge or other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system, whether

collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the discharge of such parameters in proportion to the amount of discharge.

(7) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with section 18-206 of this chapter.

(8) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the town for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(9) Billing. The billing for normal domestic wastewater services shall consist of monthly billing in accordance with the rates specified by the town, subject to net and gross rates. (Ord. 89, § 11, modified)

18-212. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the Town of Whiteville, Tennessee. (Ord. 89, § 12)

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.
- 18-306. Correction of violations.
- 18-307. Required protective device.
- 18-308. Nonpotable supplies.
- 18-309. Provisions applicable.
- 18-310. Penalty.
- 18-311. Severability clause.
- 18-312. Effective date.

18-301. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter.

(1) "Public water system." The waterworks system which furnishes water to Town of Whiteville and certain surrounding areas for general use and which is recognized as a public water system by the Tennessee Department of Health and Environment.

(2) "Cross-connection." Any physical arrangement whereby a public water system is connected, directly or indirectly, with any other water supply system, 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 system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover 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 system is connected directly with a sewer, drain,

¹Municipal code reference

Plumbing and related codes: title 12.

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 system.

(6) "Person." Any individual, corporation, company, association, partnership, state, municipality, utility district, water cooperative, or federal agency.

(7) "Superintendent¹." That person in charge of the operation of the Whiteville Water System or the authorized representative of that person. (Ord. 94, § 1)

18-302. Standards. The Town of Whiteville Public Water System is to comply with sections 68-13-701 through 68-13-719 of the Tennessee Code Annotated, as well as the Rules and Regulations for Public Water Systems, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses, and interconnections, and establish an effective on-going program to control these undesirable water uses. (Ord. 94, § 2)

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 superintendent of the such as manager of the Whiteville Public Water System. (Ord. 94, § 3)

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 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. (Ord. 94, § 4)

18-305. Inspections. The superintendent shall inspect all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be established by the

¹Or other title of the official in charge of the water system.

superintendent in accordance with guidelines acceptable to Tennessee Department of Health and Environment.

The superintendent or authorized representative shall have the right to enter at any reasonable time any property served by a connection to the Whiteville Public Water System for the purpose of inspecting the piping system therein for cross-connections, auxiliary intakes, bypasses or interconnections. On request, the owner, lessee, or occupant or any property so served shall furnish any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (Ord. 94, § 5)

18-306. Correction of violations. Any person who now has crossconnections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of time required to complete the work, the amount of time shall be designated by the 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 68-13-711, within the time limits set by the Whiteville Public Water System, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the superintendent shall give the customer legal notification that water service is to be discontinued, and physically separate the public water system from the customers 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 superintendent of the water system 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 system from the on-site piping system unless the imminent hazard(s) is corrected immediately. (Ord. 94, § 6)

18-307. Required protective device. Where the nature of use of the water supplied a premises by the water system is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation;
- (2) The owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the superintendent or his designated representative that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water;
- (3) The nature and mode of operation within a premises are such that frequent alterations are made to the plumbing; or

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected;

Then the superintendent shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective devices shall be reduced pressure zone type backflow preventers 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 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 Town of Whiteville Public Water System shall have the right to inspect and test the device on an annual basis or whenever deemed necessary by the superintendent.

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. Where it is found that only one unit has been installed and the continuance of service is critical, the 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 or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, and to keep any protective device working properly. 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 superintendent. The failure to maintain a backflow prevention device in proper working order shall be grounds for discontinuing water service to a premises. Likewise the removal, bypassing, or altering a protective device or the installation thereof so as to render a device 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 superintendent. (Ord. 94, § 7)

18-308. Nonpotable supplies. The potable water system made available to premises served by the public water system 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

Minimum acceptable sign shall have black letters at least one-inch high located on a red background. (Ord. 94, § 8)

18-309. Provisions applicable. The requirements contained herein shall apply to all premises served by the Whiteville Public 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 Town of Whiteville corporate limits. (Ord. 94, § 9)

18-310. Penalty. 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 therefore, shall be fined not less than ten dollars (\$10) nor more than fifty dollars (\$50), and each day of continued violation after conviction shall constitute a separate offense. (Ord. 94, § 10)

18-311. Severability clause. Should any part(s) of this chapter be declared invalid for any reason, no other part(s), of this chapter shall be affected thereby. (Ord. 94, § 11)

18-312. Effective date. All chapters and part(s) of chapters in conflict with this chapter shall be hereby repealed; and that this chapter shall take effect from and after its passage. (Ord. 94, § 12)

TITLE 19

ELECTRICITY AND GAS

(RESERVED FOF FUTURE USE)

TITLE 20

MISCELLANEOUS

(RESERVED FOF FUTURE USE)

ORDINANCE NO. 104

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION [AND REVISION] OF THE ORDINANCES OF THE TOWN OF WHITEVILLE, TENNESSEE.

WHEREAS some of the ordinances of the Town of Whiteville are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Whiteville, Tennessee, has caused its ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Whiteville Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF WHITEVILLE, TENNESSEE,¹ THAT:

Section 1. Ordinances codified. The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Whiteville 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

¹The charter may provide for a different ordination clause; use whatever the charter prescribes.

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; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the 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 fifty dollars (\$50.00) 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

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.

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, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to 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.

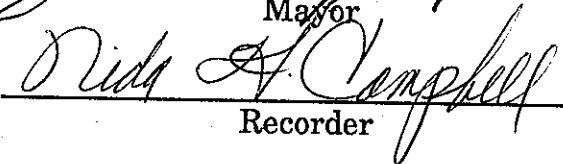
Passed 1st reading February 1, 1993.

Passed 2nd reading March 1, 1993.

Passed 3rd reading April 5, 1993.



Mayor



Recorder