

THE  
WINCHESTER  
MUNICIPAL  
CODE

Prepared by the

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

in cooperation with

TENNESSEE MUNICIPAL LEAGUE

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Change 12, August 11, 2015

CITY OF WINCHESTER, TENNESSEE

MAYOR

Terry Harrell

VICE MAYOR

Bruce Spencer

CITY COUNCIL

Cile Alexander  
Jeannie Bates  
Gene Snead  
William Womack

CITY ADMINISTRATOR

Beth Rhoton

## Preface

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to 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 Sherry R. Hill, Administrative Services Assistant, and Bobbie J. Sams, the MTAS Word Processing Specialist who did all the typing on this project, is gratefully acknowledged.

Steve Lobertini  
Codification Specialist

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE  
CITY CHARTER

3.15. Style of ordinances. Ordinances and resolutions shall be in written form before being introduced, and a copy shall be furnished to each member of the council in advance of the meeting at which introduced. The enacting clause of ordinances shall be, "Be it ordained by the Council of the City of Winchester, Tennessee."

3.16. Ordinance procedure.

(a) No action of the council shall be valid or binding unless approved by the affirmative vote of at least three (3) members of the council.

(b) Any ordinance which repeals or amends existing ordinances shall set forth at length the sections or subsections repealed or amended.

(c) Every ordinance, except an emergency ordinance, shall be approved on three (3) considerations not less than one (1) week apart between the first and second consideration.

(d) Ordinances shall become effective on the date provided in the ordinance.

(e) Only the caption of every ordinance shall be read prior to its consideration for approval. The council may request that the entire ordinance be read at the time it is being considered.

(f) Copies of such ordinances shall be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second consideration.

(g) An emergency ordinance shall require only one (1) vote and is effective upon the day of its passage; provided, it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting the emergency.

(h) The majority vote of all members of the board present shall be required to pass an emergency ordinance.

(i) No ordinance making a grant, renewal, or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be passed as an emergency ordinance.

(j) No ordinance shall be amended except by a new ordinance.

(k) The council shall have the general and continuing ordinances of the city assembled into an official code of the city, a copy of which shall be kept currently up to date by the city recorder and shall be available to the public.

(l) After adoption of the official code all ordinances shall be adopted as additions to, deletions from, or amendments to the code.

(m) Standard codes may be adopted by ordinances which contain only references to titles, dates, issuing organizations, and changes to the standard codes as the council may deem desirable. Procedures prescribed by general law shall be followed when adopting standard codes.

(n) Copies of the official code and any standard codes so adopted by reference shall be available to the public at prices fixed by the council.

(o) The original copies of ordinances, resolutions, contracts, and other documents shall be filed and preserved by the city recorder.

3.17. Voting by the council. The ayes and nays shall be recorded in the minutes for all ordinance considerations. Resolutions and actions of the council may be approved by majority vote of the council using rules adopted by the council, unless otherwise required by state regulations.

3.18. Recording of ordinances. Every ordinance shall be immediately taken charge of by the recorder and numbered, copied in an ordinance book, filed and preserved by the recorder in his office. The original copies of ordinances, resolutions, contracts, and other documents shall be filed and preserved by the city recorder. [Priv. Acts 2011, ch. 28, §§ 3.15--3.18]

TITLE 1

GENERAL ADMINISTRATION<sup>1</sup>

CHAPTER

1. CITY COUNCIL.
2. MAYOR.
3. CITY CLERK.
4. CITY ATTORNEY.
5. CODE OF ETHICS.

CHAPTER 1

CITY COUNCIL<sup>2</sup>

SECTION

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

1-101. Time and place of regular meetings. The city council shall hold regular monthly meetings at 7:00 P.M. on the second Tuesday of each month at the city hall. (1983 Code, § 1-101, as amended by Ord. #575, May 1987, Ord. #626, Apr. 1992, and Ord. #838, May 2005)

1-102. Order of business. At each meeting of the governing body, 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 city clerk.
- (3) Reading of minutes of the previous meeting by the city clerk and approval or correction.
- (4) Grievances from citizens.

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<sup>1</sup>Charter references

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

Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

<sup>2</sup>Charter reference: art. II, § 2.03.

- (5) Communications from the mayor.
- (6) Reports from committees, members of the city council, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1983 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the city council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1983 Code, § 1-103)



## CHAPTER 2

MAYOR

## SECTION

1-201. Authority and duties prescribed by the charter.

1-202. Proclamation of civil emergencies, imposition of curfews and issuance of other orders during civil emergencies.

1-201. Authority and duties prescribed by the charter. The authority and duties of the mayor are prescribed in the charter.<sup>1</sup> (1983 Code, § 1-201)

1-202. Proclamation of civil emergencies, imposition of curfews and issuance of other orders during civil emergencies. (1) The mayor is authorized to proclaim civil emergencies and to impose curfews during civil emergencies not to exceed fifteen (15) days and he is further authorized to make certain orders during civil emergencies and impose punishment for violation of such orders.

(2) Definitions.

(a) Civil emergency is defined to be: (i) A riot or unlawful assembly characterized by the use of actual force or violence or a threat to use force if accompanied by the immediate power to execute by three or more persons acting together without authority of law.

(ii) Any natural disaster or man-made calamity including but not limited to flood, conflagration, cyclone, tornado, earthquake or explosion within the geographic limits of a municipality resulting in the death or injury of persons, or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

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<sup>1</sup>Charter references

Administrative duties: art. III, § 3.02.

Budgetary duties: art. IV, §§ 4.02 and 4.06.

Compensation: art. II, § 2.03(b).

Election: art. II, § 2.01.

Judicial duties: art. III, § 3.05.

Presiding officer: art. II, § 2.04.

Prohibitions on interference with performance of duties and reducing authority: art. II, § 2.07 and art. III, § 3.01.

Vacancy in office: art. II, § 2.06.

Vice-Mayor: art. II, § 2.05.

(iii) The destruction of property, or the death or injury of persons brought about by the deliberate acts of one or more persons acting either alone or in concert with others when such acts are a threat to the peace of the general public or any segment thereof.

(b) Curfew is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the municipality except persons officially designated to duty with reference to said civil emergency or those lawfully on the streets as defined hereinafter.

(3) When the mayor determines that a civil emergency as defined herein does exist, he shall forthwith proclaim in writing the existence of the same, a copy of which proclamation shall be filed with the city clerk.

(4) After proclamation of a civil emergency by the mayor, he may order a general curfew applicable to such geographical areas of the city as he deems advisable, and applicable during which hours of the day or night as he deems necessary in the interest of the public safety and welfare. Said proclamation and general curfew shall have the force and effect of law and shall continue in effect until rescinded in writing by the mayor, but not to exceed 15 days.

(5) After proclamation of a civil emergency the mayor may at his discretion, in the interest of public safety and welfare:

(a) Order the closing of all retail liquor stores.

(b) Order the closing of all establishments wherein beer or alcoholic beverages are served.

(c) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor and/or beer is permitted.

(d) Order the discontinuance of the sale of beer.

(e) Order the discontinuance of selling, distributing, or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(f) Order the closing of gasoline stations, and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products.

(g) Order the discontinuance of selling, distributing, dispensing or giving away any fire-arms or ammunition of any character whatsoever.

(h) Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of fire-arms and/or ammunition.

(i) Issue such other orders as are necessary for the protection of life and property.

(6) Any person violating the provisions of orders issued by the mayor pursuant to this ordinance during a proclaimed civil emergency shall be guilty

of a misdemeanor and be punished under the general penalty provision of this code.

(7) Any curfew as defined hereby shall not apply to persons lawfully on the streets and public places during a civil emergency who have obtained permission of the local chief of police or other law enforcement officer then in charge of municipal law enforcement which permission shall be granted on good cause shown. This curfew also shall not apply to medical personnel in the performance of their duties. (1983 Code, § 1-202)

CHAPTER 3

CITY CLERK

SECTION

1-301. Authority and duties prescribed by the charter.

1-301. Authority and duties prescribed by the charter. The authority and duties of the city clerk are prescribed by the charter.<sup>1</sup> (1983 Code, § 1-301)

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<sup>1</sup>Charter reference

Administrative duties: art III, § 3.03.

CHAPTER 4

CITY ATTORNEY

SECTION

1-401. Authority and duties prescribed by the charter.

1-401. Authority and duties prescribed by the charter. The authority and duties of the city attorney are prescribed by the charter.<sup>1</sup> (1983 Code, § 1-401)

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<sup>1</sup>Charter references

Appointment and duties: art. III, § 3.04.

Delinquent taxes: art. IV, § 4.16.

CHAPTER 5

CODE OF ETHICS<sup>1</sup>

SECTION

- 1-501. Applicability.
- 1-502. Definition of "personal interest."
- 1-503. Disclosure of personal interest by official with vote.
- 1-504. Disclosure of personal interest in non-voting matters.
- 1-505. Acceptance of gratuities, etc.
- 1-506. Use of information.
- 1-507. Use of municipal time, facilities, etc.
- 1-508. Use of position or authority.
- 1-509. Outside employment.
- 1-510. Ethics complaints.
- 1-511. Violations.

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<sup>1</sup>State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the Tennessee Code Annotated (T.C.A.) sections indicated:

Campaign finance: Tennessee Code Annotated, title 2, ch. 10.

Conflict of interests: Tennessee Code Annotated, §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements: Tennessee Code Annotated, § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials: Tennessee Code Annotated, §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office): Tennessee Code Annotated, § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information: Tennessee Code Annotated, § 39-16-401 and the following sections.

Ouster law: Tennessee Code Annotated, § 8-47-101 and the following sections.

1-501. Applicability. This chapter constitutes the code of ethics for officials and employees of the City of Winchester. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #865, Oct. 2006)

1-502. Definition of "personal interest." (1) For purposes of §§ 1-503 and 1-504, "personal interest" means:

(a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or

(b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #865, Oct. 2006)

1-503. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself<sup>1</sup> from voting on the measure. (as added by Ord. #865, Oct. 2006)

1-504. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the

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<sup>1</sup>Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #865, Oct. 2006)

1-505. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the city:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #865, Oct. 2006)

1-506. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #865, Oct. 2006)

1-507. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the city council to be in the best interests of the city. (as added by Ord. #865, Oct. 2006)

1-508. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the city.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the city. (as added by Ord. #865, Oct. 2006)

1-509. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with



any provision of the city's charter or any ordinance or policy. (as added by Ord. #865, Oct. 2006)

1-510. Ethics complaints. (1) The city attorney is designated as the ethics officer of the city. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #865, Oct. 2006)

1-511. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the city's charter or other applicable law, and in addition is subject to censure by the city council. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #865, Oct. 2006)

## TITLE 2

BOARDS AND COMMISSIONS, ETC.

## CHAPTER

## 1. MISCELLANEOUS.

## CHAPTER 1

MISCELLANEOUS

## SECTION

2-101. Limitation on terms of members of boards, commissions, and committees.

2-102. Reimbursements of salary and expenses of employees.

2-103. Fiscal year for city.

2-101. Limitation on terms of members of boards, commissioners, and committees. (1) The maximum length of continual service for any individual on any city appointed board, commission, committee or authority, except members of the standing committees of the city council, shall be two (2) terms or eight (8) years, whichever shall be the lesser length of time.

(2) Any person may become eligible for reappointment to any board, commission, committee or authority after one (1) year following the termination of his last service. No person shall serve concurrently on more than one board, committee, commission or authority.

(3) All board, commission, committee and authority members presently serving shall be considered in their first term of appointment so far as the application of this section is concerned and their eligibility for continuous service shall be governed accordingly.

(4) Persons now serving on more than one board, commission, committee or authority may choose to remain a member of only one and their choice shall be made within thirty (30) days from the passage of this section.

(5) This section shall in no way effect the normal reappointment procedure now provided by law except for the limitations of time and service as herein provided.

(6) The term of any person serving as a member of a board, commission, committee or authority may be terminated by the city council at any time if such person shall miss three (3) consecutive meetings without a reasonable excuse.

(7) The Winchester Regional Planning Commission shall be excluded from this section and the terms thereof shall in no way effect the terms and eligibility of persons to serve continually on the planning commission. (1983 Code, § 1-1101)

2-102. Reimbursements of salary and expenses of employees. Reimbursement of salary and expenses of employees while carrying out the business of the city on a project where salaries and expenses are reimbursable, are hereby authorized. The actual expenses of any employee who is required by said duties to work away from his usual place of business and home shall be reimbursed. Gasoline used by an employee in the course of his business will be replaced by the city from the city pump whenever practical.

A city employee shall be one so designated by the city who receives any salary from the city and shall specifically include the grants coordinator and other individuals who work on federal programs where the city is the recipient of federal funds.

All expenditures reimbursable under this section shall be properly documented and such documentation shall be filed with the city clerk before reimbursement is made. (1983 Code, § 1-1102)

1-103. Fiscal year for city. The fiscal year of the city government of Winchester shall begin on the first day of July and end on the 30th day of June of the succeeding year. (1983 Code, § 1-1103)

TITLE 3

MUNICIPAL COURT<sup>1</sup>

CHAPTER

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

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge.

3-101. City judge. The officer appointed by the council to handle judicial matters within the municipality shall preside over the city court and shall be known as the city judge.<sup>1</sup> (1983 Code, § 1-601, modified)

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<sup>1</sup>Charter reference

City Court: art. III, § 3.05.

Municipal code reference

Records of traffic cases: § 15-110.

## CHAPTER 2

COURT ADMINISTRATION

## SECTION

- 3-201. Hours of court; continuances.
- 3-202. Maintenance of docket.
- 3-203. Imposition of fines, penalties, and costs.
- 3-204. Disposition and report of fines, penalties, and costs.
- 3-205. Disturbance of proceedings.
- 3-206. Payment of fines; execution; stay of execution.

3-201. Hours of court; continuances. The city judge shall open and hold a court for the trial of all persons arrested by the police of the city for the violation of any law or ordinance of the city or state, committed within the corporate limits or within one (1) mile of such limits. Such court shall be opened at 8:30 a.m., or at such other hour as the court may fix, of each day except Sunday, and shall continue in session until all cases submitted for trial or investigation by the judge shall have been tried, examined and disposed of. If, in the opinion of the court any person brought before the court on any charge whatsoever is too intoxicated to properly understand his situation and the trial, the judge may commit such person to the prison room of the city workhouse until he is sober, and the judge may grant continuance in any case upon good cause shown. (1983 Code, § 1-602)

3-202. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information which may be relevant.<sup>1</sup> (1983 Code, § 1-609)

3-203. Imposition of fines, penalties, and costs. All fines, penalties, and costs shall be imposed and recorded by the city judge on the city court docket in open court.

In all cases heard or determined by him, the city judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions<sup>2</sup> for similar work in state cases. (1983 Code, § 1-606)

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<sup>1</sup>Charter reference  
City Court: art. III, § 3.05(e).

<sup>2</sup>State law reference  
Tennessee Code Annotated, § 8-21-401.

3-204. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the city council 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.<sup>1</sup> (1983 Code, § 1-608)

3-205. Disturbance of proceedings. Every person who shall intentionally create a disturbance during the trial of any defendant before the court by loud noise, indecorous or blasphemous language, or other improper conduct, shall be deemed in contempt of court and guilty of a misdemeanor. (1983 Code, § 1-613)

3-206. Payment of fines; execution; stay of execution. Any person fined by the judge may have a stay of execution for thirty (30) days. Such stay shall be granted only when a property owner of the city, approved by the chief or lieutenant of police, agrees in writing to act as security for the fine. The stay granted shall be a confession of judgement on the part of such property owner. Fines so secured may be paid in installments, provided the whole amount is paid within such period of thirty (30) days. At the end of thirty (30) days, if such fine and costs are not paid in full, the judge shall issue an execution against the party fined and the security, which shall be placed in the hands of the chief of police or lieutenant of police for collection and when collected shall be paid to the treasurer as in the case of the collection of other fines. In any case where such fine is not paid or secured as herein provided, the defendant shall be committed to the workhouse and required to work out same as provided by the charter and laws of the city. (1983 Code, § 1-607)

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<sup>1</sup>Charter reference

City court - docket: art. III, § 3.05(d).

## 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.<sup>1</sup> The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1983 Code, § 1-610)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender personally to appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1983 Code, § 1-611)

3-303. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1983 Code, § 1-612)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 40, chapter 6.

## CHAPTER 4

BONDS AND APPEALS

## SECTION

3-401. Confinement upon arrest for misdemeanor; bond.

3-402. Confinement upon arrest for felony; bond.

3-403. Condition, amount of bond; appeal.

3-401. Confinement upon arrest for misdemeanor; bond. All persons arrested for any violation of any law or ordinance of the city or state denominated a misdemeanor, committed within the corporate limits of the city or within one (1) mile of such limits, shall be confined in the city jail and shall remain there until the next meeting of the city court. Any person so arrested and confined shall have the privilege of giving security, approved by the chief or lieutenant of police, for his appearance in the court as provided in this chapter. (1983 Code, § 1-603)

3-402. Confinement upon arrest for felony; bond. All persons charged with a felony shall be immediately confined in the city jail or delivered to the county sheriff or upon proper request may be taken before the city court or court of general sessions for the giving of bond for appearance, as required by state law. (1983 Code, § 1-604)

3-403. Condition, amount of bond; appeal. The chief or lieutenant of police shall have the power to take recognizance or bond of any person arrested for any offense denominated a misdemeanor under the ordinances of the city in a sum not exceeding fifty dollars (\$50.00) nor less than five dollars (\$5.00), with security approved by the chief of police, conditioned that he make his appearance in person or by agent or attorney before the judge at the next meeting of the court, and upon failure to so appear, the bond aforesaid shall be forfeited. For violation of any state law, bond shall be as required by state law. Any person tried and convicted of any misdemeanor before the court and subjected to a penalty thereby, being dissatisfied with the judgement of the court, may, within ten (10)<sup>1</sup> entire days thereafter, Sunday excepted, appeal to the next term of the circuit court of Franklin County, upon giving bond with good and sufficient security approved by the court in the sum of two hundred and fifty dollars (\$250.00), conditioned for his appearance before the circuit court or faithful prosecution of the appeal. (1983 Code, § 1-605)

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<sup>1</sup>State law reference

See Tennessee Code Annotated, § 27-5-101.



## TITLE 4

MUNICIPAL PERSONNEL

## CHAPTER

1. SOCIAL SECURITY.
2. PERSONNEL SYSTEM.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. INFECTIOUS DISEASE CONTROL POLICY.
5. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

## CHAPTER 1

SOCIAL SECURITY

## SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports.
- 4-106. Ratification of employee pension plan for Winchester Utility Systems.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this city to provide for all eligible employees and officials of the city, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1983 Code, § 1-901)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1983 Code, § 1-902)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1983 Code, § 1-903)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1983 Code, § 1-904)

4-105. Records and reports. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1983 Code, § 1-905)

4-106. Ratification of employee pension plan for Winchester Utility Systems. It is fully recognized that the full responsibility and authority for operating the utilities in the City of Winchester was granted to the Board of Public Utilities for the City of Winchester by the Private acts of 1953 and amendments thereto. The city council is informed that the Board of Public Utilities in the performance of its responsibility has obtained a pension plan for the benefits of its employees. The pension plan now in force is referred to as "Employee Pension Trust Fund" and is provided by the Aetna Insurance Company. It is the sole purpose of this section to approve and ratify the action of the Board of Public Utilities in providing the benefits instant to this plan to their employees.

Having full confidence in the judgment of the Board of Public Utilities to provide for its employees, the city council does hereby ratify and approve the aforesaid employee pension trust fund provided for said employees by the Aetna Insurance Company. (1983 Code, § 1-906)

## CHAPTER 2

PERSONNEL SYSTEM

## SECTION

- 4-201. Purpose.
- 4-202. Coverage.
- 4-203. Administration of the personnel system.
- 4-204. Personnel rules and regulations.
- 4-205. Personnel records.
- 4-206. Right to contract for special services.
- 4-207. Discrimination.
- 4-208. Amendments.

4-201. Purpose. The purpose of this chapter is to establish a system of personnel administration in the City of Winchester that is based on merit and fitness. The system shall provide means to select, develop, and maintain an effective municipal work force through the impartial application of personnel rules and regulations free of personal and political considerations and regardless of race, color, sex, age, creed, national origin or physically impaired condition. (Ord. #647, Mar. 1993)

4-202. Coverage. All offices and positions of the municipal government are divided into the classified service and the exempt service. The classified service shall include all regular full-time and regular part-time positions in the city's service unless specifically placed in the exempt service. All offices and positions of the municipal government placed in the exempt service are as follows:

- (1) All elected officials and persons appointed to fill vacancies in elective offices.
- (2) Members of appointed boards and commissions.
- (3) Consultants, advisers, and legal counsel rendering temporary professional service.
- (4) City attorney and assistant city attorney.
- (5) Independent contractors.
- (6) Persons employed by the municipality for not more than six (6) months during a fiscal year.
- (7) Part-time employees paid by the hour or the day, and not considered regular.
- (8) Volunteer personnel appointed without compensation.
- (9) City judge if elected or part-time.

All employment positions of the municipal government not expressly exempted from coverage by this section shall be subject to the provisions of this chapter. (Ord. #647, Mar. 1993)

4-203. Administration of the personnel system. The personnel system shall be administered by the city administrator who shall have the following duties and responsibilities:

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

(2) Establish policies and procedures for the recruitment, appointment, and discipline of all employees of the municipality subject to those policies as set forth in this chapter, the municipal charter and the municipal code.

(3) Fix and establish the number of employees in the various municipal government departments and offices and determine the duties, authority, responsibility, and compensation in accordance with the policies as set forth in the municipal charter and code, and subject to the approval of the city council and budget limitations.

(4) Foster and develop programs for the improvement of employee effectiveness, including training, safety, and health.

(5) Maintain records of all employees subject to the provisions of this chapter of the municipal code which shall include each employee's class, title, pay rates, and other relevant data.

(6) Make periodic reports to the city council regarding the administration of the personnel system.

(7) Recommend to the city council a position classification plan, and install and maintain such a plan upon approval by the council.

(8) Prepare and recommend to the city council a pay plan for all municipal government employees, within the guidelines of the annual budget.

(9) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the employment needs of the municipal government.

(10) Be responsible for certification of payrolls.

(11) Perform such other duties and exercise such other authority in personnel administration as may be prescribed by law and the city council. (Ord. #647, Mar. 1993)

4-204. Personnel rules and regulations. The city administrator shall develop personnel rules and regulations, in the form of an employee's handbook, necessary for the effective administration of the personnel system. The city council shall adopt the rules presented to them by the city administrator. If the city council has taken no action within ninety (90) days after receipt of the draft personnel rules and regulations, they shall become effective as if they had been adopted, and shall have the full force and effect of law. Amendments to the rules and regulations may be made at any time and shall be made in accordance with the procedure below. Nothing in the personnel rules and regulations (Personnel Handbook) shall be deemed to give an employee any more property

rights in their job than may already be given by the municipal charter. (Ord. #647, Mar. 1993)

4-205. Personnel records. The city administrator shall maintain adequate records of the employment record of every employee as specified herein. All medical records shall be kept in a separate confidential file for each employee. (Ord. #647, Mar. 1993)

4-206. Right to contract for special services. The city council may direct the mayor to contract with any competent agency for the performance of such technical services in connection with the establishment of the personnel system or with its operation as may be deemed necessary. (Ord. #647, Mar. 1993)

4-207. Discrimination. No person in the classified service or seeking admission thereto, shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of political opinions or affiliations, or because of race, color, creed, national origin, sex, ancestry, age, religious belief, or disability. (Ord. #647, Mar. 1993)

4-208. Amendments. Amendments or revisions of these rules may be recommended for adoption by the city administrator. Such amendments or revisions of these rules shall become effective upon voice vote and approval by the city council at any regularly scheduled city council meeting. (Ord. #647, Mar. 1993)

## CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

## SECTION

- 4-301. Establishment.
- 4-302. Title.
- 4-303. Purpose.
- 4-304. Definitions.
- 4-305. Coverage.
- 4-306. Employer's rights and duties.
- 4-307. Employee's rights and duties.
- 4-308. Standards authorized.
- 4-309. Variances from standards authorized.
- 4-310. Abatement.
- 4-311. Inspection.
- 4-312. Administration.
- 4-313. Funding the program.
- 4-314. Compliance.

4-301. Establishment. There is hereby created a safety and health program for the employees of the City of Winchester. (1983 Code, § 1-1001)

4-302. Title. This section shall provide authority for establishing and administering the Occupational Safety and Health Program for the employees of Winchester. (1983 Code, § 1-1002)

4-303. Purpose. The City of Winchester, in electing to establish and maintain an effective occupational safety and health program for its employees, shall:

- (1) Provide a safe and healthful place and condition of employment.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Make, keep, preserve and make available to the State Commissioner of Labor, his designated representative or persons within the agency to whom such responsibilities have been delegated, adequate records of all occupational accidents and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the State Commissioner of Labor or his designated representative, with regard to the adequacy of the form and content of records.
- (5) Consult with the State Commissioner of Labor or the State Commissioner of Public Health, as appropriate, regarding safety and health problems of the agency which are considered to be unusual or peculiar to the city

and are such that they cannot be achieved under a standard promulgated by the State.

(6) Make an annual report to the State Commissioner of Labor to show accomplishments and progress of the total occupational safety and health program.

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

(8) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (1983 Code, § 1-1003)

4-304. Definitions. For the purpose of the program established pursuant to this chapter:

(1) "Commissioner of Labor" means the chief executive officer of Tennessee Department of Labor. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor.

(2) "Commissioner of Public Health" means the chief executive officer of the Tennessee Department of Public Health. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Public Health.

(3) "Employer" means the city, and shall include each administrative department, commission, board, division or other agency of the city.

(4) "Director of Safety and Health" means the chief executive officer designated by the city to perform duties or to exercise powers assigned so as to plan, develop, and administer the city's safety and health program.

(5) "Inspector(s)" means the individual(s) appointed and designated by the director of safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, the inspections shall be conducted by the director of safety and health.

(6) "Appointing authority" means any city official or group of officials having legally designated powers of appointment, employment, or removal for a specific department, commission, board, division or other agency of the city.

(7) "Employee" means any person performing services for the city and listed on city payrolls either as part-time, seasonal, or permanent, full-time employees; provided, however, that such definition shall not include independent contractors, their agents, servants, and employees.

(8) "Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives or any organized group of persons.

(9) "Standard" means an occupational safety and health standard promulgated by the Tennessee State Commissioner of Labor or the State Commissioner of Public Health which requires conditions or the adoption or the use of one or more practices, means, methods, operations or processes necessary or appropriate to provide safe and healthful employment and places of employment.

(10) "Imminent danger" means any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal enforcement procedures.

(11) "Establishment or workplace" means a single physical location where business is conducted or where services or industrial operations are performed. (1983 Code, § 1-1004)

4-305. Coverage. The provisions of the program shall apply to employees of each administrative department, commission, board, division or other agency of the city. (1983 Code, § 1-1005)

4-306. Employer's rights and duties. Rights and duties of the employer shall include, but are not limited to the following provisions:

(1) Employer shall furnish to each of his employees conditions of employment and a place of employment free from known and recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

(2) Employer shall comply with occupational safety and health standards or regulations promulgated pursuant to the State Occupational Safety and Health Act of 1972.

(3) Employer shall assist the State Commissioner of Labor and State Commissioner of Public Health in the performance of their monitoring duties by supplying necessary information to the commissioners or to their respective assistants or deputies.

(4) Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearings on proposed standards, or by requesting the development of standards on a given issue.

(5) Employer is entitled to request an order granting a variance from an Occupational Safety and Health Standard.

(6) Employer shall inspect all installations, departments, bureaus, and offices to insure the provision of this program are complied with and carried out.

(7) Employer shall notify and inform any employee, who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard, of corrective action being taken by the city. (1983 Code, § 1-1006)



4-307. Employee's rights and duties. Rights and duties of employees shall include, but are not limited to the following provisions:

(1) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

(2) Each employee shall be notified by the placing upon bulletin boards, or other places of common passage, of any application for a temporary order granting a variance from any standard or regulation.

(3) Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

(4) Any employee may bring to the attention of the person in charge of the program any violation of the standards or other health or safety hazard.

(5) Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and the corrective action being taken.

(6) Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection.

(7) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under or relating to this program. Any such charges of discrimination are subject to investigation by the commissioner of labor.

(8) Nothing in this section or any other provision of this program shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, and except when such medical examination is reasonably required for performance of a specified job. (1983 Code, § 1-1007)

4-308. Standards authorized. The standards adopted by the City of Winchester are the State of Tennessee Safety and Health Standards developed under section 6 of the State Occupational Safety and Health Act of 1972. (1983 Code, § 1-1008)

4-309. Variations from standards authorized. The City of Winchester may, upon written application to the State Commissioner of Labor or the State Commissioner of Public Health, request an order granting a temporary variance from any approved standards. Prior to requesting such temporary variance, the employer shall notify or serve notice to employees or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the city, shall be deemed sufficient notice to employees. (1983 Code, § 1-1009)

4-310. Abatement. The program will provide for administrative procedures for abating hazards. (1983 Code, § 1-1010)

4-311. Inspection. (1) In order to carry out the purposes of this program resolution, the safety and health inspectors are authorized:

(a) To enter at any reasonable time any establishment, construction site, plant, or other area, workplace, or environment where work is performed by an employee of the City of Winchester, and,

(b) To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent or employee working therein.

(2) The City of Winchester shall establish and maintain a system for collecting, maintaining, and reporting safety and health data.

(3) The program shall comply with the record keeping regulations pursuant to the Tennessee Occupational Safety Act of 1972.

(4) After this chapter has been enacted, the City of Winchester, shall report within forty-eight (48) hours, either orally or in writing, to the Commissioner of Labor any accident which is fatal to one or more employees or which results in the hospitalization of five (5) or more employees. (1983 Code, § 1-1011)

4-312. Administration. For the purposes of this chapter, the mayor/city clerk has the authority to designate the director of the safety and health program to perform duties or to exercise powers assigned so as to plan, develop, and administer the city's occupational safety and health program. (1983 Code, § 1-1012)

4-313. Funding the program. Sufficient funds for administering the program pursuant to this chapter shall be made available as authorized by the budgeting authority. (1983 Code, § 1-1013)

4-314. Compliance. (1) Compliance with any other law, statute or city ordinance which regulates safety and health in employment and places of employment shall not excuse the city or any city employee, or any other person from compliance with the provisions of this program.

(2) Compliance with any provisions of the program pursuant to this resolution or any standard or regulation promulgated pursuant to this program shall not excuse the city or any city employee, or any other person from compliance with any state law or city ordinance regulating and promoting safety and health unless such law or ordinance is specifically repealed. (1983 Code, § 1-1014)

## CHAPTER 4

INFECTIOUS DISEASE CONTROL POLICY

## SECTION

- 4-401. Purpose.
- 4-402. Coverage.
- 4-403. Administration.
- 4-404. Definitions.
- 4-405. Policy statement.
- 4-406. General guidelines.
- 4-407. Hepatitis B vaccinations.
- 4-408. Reporting potential exposure.
- 4-409. Hepatitis B virus post-exposure management.
- 4-410. Human immunodeficiency virus post-exposure management.
- 4-411. Disability benefits.
- 4-412. Training regular employees.
- 4-413. Training high risk employees.
- 4-414. Training new employees.
- 4-415. Records and reports.

4-401. Purpose. It is the responsibility of the City of Winchester to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of Winchester, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB). (Ord. #646, Mar. 1993)

4-402. Coverage. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Paramedics and emergency medical technicians;
- (2) Occupational nurses;
- (3) Housekeeping and laundry workers;
- (4) Police and security personnel;

- (5) Firefighters;
- (6) Sanitation and landfill workers; and
- (7) Any other employee deemed to be at high risk per this policy and an exposure determination. (Ord. #646, Mar. 1993)

4-403. Administration. This infection control policy shall be administered by the mayor or his/her designated representative who shall have the following duties and responsibilities:

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the city charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend to the city council any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be prescribed by the city council. (Ord. #646, Mar. 1993)

4-404. Definitions. (1) "Body fluids" - fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

(2) "Exposure" - the contact with blood or other potentially infectious materials to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individual's normal job duties.

(3) "Hepatitis B Virus (HBV)" - a serious blood-borne virus with potential for life-threatening complications. Possible complications include: massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.

(4) "Human Immunodeficiency Virus (HIV)" - the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through

sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

(5) "Tuberculosis (TB)" - an acute or chronic communicable disease that usually affects the respiratory system, but may involve any system in the body.

(6) "Universal precautions" - refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with potentially infectious materials to be detected as though such body fluid were HBV or HIV infected. (Ord. #646, Mar. 1993)

4-405. Policy statement. All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (Ord. #646, Mar. 1993)

4-406. General guidelines. General guidelines which shall be used by everyone include:

(1) Think when responding to emergency calls and exercise common sense when there is potential exposure to blood or other potentially infectious materials which require universal precautions.

(2) Keep all open cuts and abrasions covered with adhesive bandages which repel liquids.

(3) Soap and water kill many bacteria and viruses on contact. If hands are contaminated with blood or other potentially infectious materials to which universal precautions apply, then wash immediately and thoroughly. Hands shall also be washed after gloves are removed even if the gloves appear to be intact. When soap and water or handwashing facilities are not available, then use a waterless antiseptic hand cleaner according to the manufacturers recommendation for the product.

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After

they are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

(5) The city will provide gloves of appropriate material, quality and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or other potentially infectious materials to which universal precautions apply:

- (a) While handling an individual where exposure is possible;
- (b) While cleaning or handling contaminated items or equipment;
- (c) While cleaning up an area that has been contaminated with one of the above;

Gloves shall not be used if they are peeling, cracked, or discolored, or if they have punctures, tears, or other evidence of deterioration. Employees shall not wash or disinfect surgical or examination gloves for reuse.

(6) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victims' blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel to provide or potentially provide emergency treatment.

(7) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other potentially infectious materials to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.

(8) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other potentially infectious materials.

(9) Areas and equipment contaminated with blood shall be cleaned as soon as possible. A household (chlorine) bleach solution (1 part chlorine to 10 parts water) shall be applied to the contaminated surface as a disinfectant leaving it on for a least 30 seconds. A solution must be changed and re-mixed every 24 hours to be effective.

(10) Contaminated clothing (or other articles) shall be handled carefully and washed as soon as possible. Laundry and dish washing cycles at 120° are adequate for decontamination.

(11) Place all disposable equipment (gloves, masks, gowns, etc...) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous" dumpster. NOTE: Sharp objects must be placed in an impervious container and shall be properly disposed of.

(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

(a) Tags shall contain a signal word and a major message. The signal word shall be "BIOHAZARD", or the biological hazard symbol. The major message shall indicate the specific hazardous condition or the instruction to be communicated to employees.

(b) The signal word shall be readable at a minimum distance of five (5) feet or such greater distance as warranted by the hazard.

(c) All employees shall be informed of the meaning of the various tags used throughout the workplace and what special precautions are necessary.

(13) Linen soiled with blood or other potentially infectious materials shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage.

The employee responsible for transported soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with potentially infectious materials.

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (Ord. #646, Mar. 1993)

4-407. Hepatitis B vaccinations. The City of Winchester shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the Infectious Disease Control Coordinator. (Ord. #646, Mar. 1993)

4-408. Reporting potential exposure. City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc...):

(1) Notify the Infectious Disease Control Coordinator of the contact incident and details thereof.

(2) Complete the appropriate accident reports and any other specific form required.

(3) Arrangements will be made for the person to be seen by a physician as with any job-related injury.

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (Ord. #646, Mar. 1993)

4-409. Hepatitis B virus post-exposure management. For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (ie., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (Ord. #646, Mar. 1993)

4-410. Human immunodeficiency virus post-exposure management. For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested 6 weeks, 12 weeks, and 6 months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first 6 - 12 weeks after exposure) exposed workers should follow the U.S. Public Health service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during



sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure. (Ord. #646, Mar. 1993)

4-411. Disability benefits. Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of T.C.A. 50-6-303. (Ord. #646, Mar. 1993)

4-412. Training regular employees. On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials.

They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (Ord. #646, Mar. 1993)

4-413. Training high risk employees. In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy. (Ord. #646, Mar. 1993)

4-414. Training new employees. During the new employee's orientation to his/her job, all new employee will be trained on the effects of infectious disease prior to putting them to work. (Ord. #646, Mar. 1993)

4-415. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e.

gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc...) shall be recorded.

(3) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.

(4) Employee interviews. Should the city be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (Ord. #646, Mar. 1993)

4-416. Legal rights of victims of communicable diseases. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

(1) Officers assume that a certain degree of risk exists in law enforcement and emergency service work and accept those risks with their individual appointments. This holds true with any potential risks of contacting a communicable disease as surely as it does with the risks of confronting an armed criminal.

(2) Any officer who refuses to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall be the subject to disciplinary measures along with civil and, or criminal prosecution.

(3) Whenever an officer mentions in a report that an individual has or may have a communicable disease, he shall write "contains confidential medical information" across the top margin of the first page of the report.

(4) The officer's supervisor shall ensure that the above statement is on all reports requiring that statement at the time the report is reviewed and initiated by the supervisor.

(5) The supervisor disseminating newspaper releases shall make certain the confidential information is not given out to the news media.

(6) All requests (including subpoenas) for copies of reports marked "contains confidential medical information" shall be referred to the city attorney when the incident involves an indictable or juvenile offense.

(7) Prior approval shall be obtained from the city attorney before advising a victim of sexual assault that the suspect has, or is suspected of having a communicable disease.

(8) All circumstance, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the appropriate department head or city attorney.

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

(10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil/and/or criminal prosecution. (Ord. #646, Mar. 1993)

CHAPTER 5

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-501. Creation and title.
- 4-502. Purpose.
- 4-503. Coverage.
- 4-504. Standards authorized.
- 4-505. Variances from standards authorized.
- 4-506. Funding the program.

4-501. Creation and title. There be and is hereby created an occupational safety and health program for the employees of the City of Winchester as follows:

This section shall provide authority for establishing and administering the Occupational Safety and Health Program for the employees of the City of Winchester. (Ord. #739, Oct. 1998, as replaced by Ord. #808, Sept. 2003)

4-502. Purpose. The City of Winchester, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees, and shall:

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

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

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

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

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

(5) Consult with the State Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are

considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (Ord. #739, Oct. 1998, as replaced by Ord. #808, Sept. 2003)

4-503. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Winchester shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Winchester whether part-time or full-time, seasonal or permanent. (Ord. #739, Oct. 1998, as replaced by Ord. #808, Sept. 2003)

4-504. Standards authorized. The occupational safety and health standards adopted by the City Council of Winchester are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (Ord. #739, Oct. 1998, as replaced by Ord. #808, Sept. 2003)

4-505. Variations from standards authorized. The City of Winchester may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with "Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Winchester shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the City of Winchester shall be deemed sufficient notice to employees. (Ord. #739, Oct. 1998, as replaced by Ord. #808, Sept. 2003)

4-506. Administration. For the purposes of this chapter, the director of the City of Winchester's Public Safety Department is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the occupational health and safety program. The director shall develop a plan of operation for the program

and said plan shall become a part of this chapter<sup>1</sup> when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and Part IV of the Tennessee Occupational Safety and Health Plan. (Ord. #739, Oct. 1998, as replaced by Ord. #808, Sept. 2003)

4-507. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the City of Winchester. (Ord. #739, Oct. 1998, as replaced by Ord. #808, Sept. 2003)

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<sup>1</sup>A copy of this plan is on file in the office of the recorder.

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. HOTEL AND MOTEL PRIVILEGE TAX.
6. LITIGATION TAX.
7. PURCHASING POLICY.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depository for city funds.
- 5-102. Maximum purchases without bids or approval.
- 5-103. Application of portion of alcoholic beverage tax.

5-101. Official depository for city funds. The council shall designate an official depository or depositories in the City of Winchester or in Franklin County for deposit and safekeeping of funds of the city.<sup>1</sup>

5-102. Maximum purchases without bids or approval. To operate City Government and the Winchester Utilities in the most efficient manner requiring purchasing, the City Council of Winchester adopts the following:

- (1) Purchases or contracts of more than Five Thousand Dollars (\$5,000.00) require city council or utility board approval;
- (2) Expenditures of Five Thousand Dollars (\$5000.00) require sealed bids;

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<sup>1</sup>Charter reference  
Official depository: art. 4, § 4.20.

(3) The remaining of the existing purchasing policy shall remain the same.<sup>1</sup> (Ord. #590, Apr. 1988, modified, as amended by Ord. #819, June 2004)

5-103. Application of portion of alcoholic beverage tax. Fifty percent (50%) of the revenue from the alcoholic beverage tax shall be used solely for the construction and maintenance of sidewalks, curbs and gutters in the city. (1983 Code, § 6-102)

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<sup>1</sup>Charter reference

Centralized purchasing: art. IV, § 4.07.

Private Acts reference

Board of Public Utilities purchasing: Priv. Acts 1953, ch. 404, as amended. This Act is reproduced in full in the charter section of this municipal code, immediately following the text of the charter.



## CHAPTER 2

REAL PROPERTY TAXES<sup>1</sup>

## SECTION

5-201. When due and payable.

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

5-203. Penalty, interest on delinquent property taxes.

5-204. Publication of delinquent taxes authorized.

5-201. When due and payable.<sup>2</sup> Taxes levied by the city against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1983 Code, § 6-201)

5-202. When delinquent--penalty and interest.<sup>3</sup> All real property taxes shall become delinquent on and after the first day of March next after they become due and payable. (1983 Code, § 6-202)

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<sup>1</sup>Charter reference

Property taxes: art. IV, § 4.12.

Omitted property: art. IV, § 4.13.

Tax levy: art. IV, § 4.14.

Tax due dates and tax bills: art. IV, § 4.15.

Delinquent taxes: art. IV, § 4.16.

County may collect taxes: art. IV, § 4.17.

<sup>2</sup>State law reference

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

<sup>3</sup>State law reference

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

5-203. Penalty, interest on delinquent property taxes. If taxes levied against real property be not paid when due as provided by § 5-202 above, there shall be added thereto for collection a penalty of five per cent (5%) of the amount of tax due, plus interest at the rate of one-half per cent (1/2 of 1%) for each month or fraction thereof until paid. (1983 Code, § 6-203)

5-204. Publication of delinquent taxes authorized. The city council may, at its discretion, direct the city clerk to have published a list of all delinquent real property taxes in the official newspaper of the city one time on April 1st of each year. The city clerk, upon being directed by the city council to publish a list of delinquent real property taxes shall prepare or cause to be prepared a list showing the name of the taxpayer, tax plot number, and the amount of all delinquent real property taxes and shall deliver same to the official newspaper of the city for publication on the date specified herein. (1983 Code, § 6-204)

## CHAPTER 3

PRIVILEGE TAXES

## SECTION

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated § 67-4-701 et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the said act. (1983 Code, § 6-301)

5-302. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the city clerk to each applicant therefor upon such applicant's payment of the appropriate privilege tax. (1983 Code, § 6-302)

## CHAPTER 4

WHOLESALE BEER TAX

## SECTION

5-401. To be collected.

5-401. To be collected. The city clerk is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup> (1983 Code, § 6-401)

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<sup>1</sup>State law reference

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

Municipal code reference

Alcohol and beer regulations: title 8.

## CHAPTER 5

HOTEL AND MOTEL PRIVILEGE TAX

## SECTION

- 5-501. Definitions.
- 5-502. Privilege tax on occupancy.
- 5-503. Collection of the privilege tax.
- 5-504. Tax levied.
- 5-505. Responsibility to collect.
- 5-506. Restrictions upon operator.
- 5-507. Delinquent taxes.
- 5-508. Time limit to keep records.
- 5-509. Powers of the collector.
- 5-510. Clerk's duty of collection.

5-501. Definitions. As used in this chapter unless the context otherwise requires.

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(2) "Hotel" means any structure, or any portion of any structures, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist cabin, tourist court, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(3) "Occupancy" means the use or possession, or the right to use or possession, of any room, lodgings or accommodations in any hotel.

(4) "Operator" means the person operating the hotel whether as owner, lessee, or otherwise.

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

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than ninety (90) continuous days. (Ord. #592, Nov. 1988)

5-502. Privilege tax on occupancy. The City of Winchester levies a privilege tax upon the privilege of occupancy in any hotel or each transient in

an amount equal to 5% of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided herein. (Ord. #592, Nov. 1988)

5-503. Collection of the privilege tax. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel to be given directly to or transmitted to the transient and shall be collected by such operator from the transient and remitted to the city.

When a person has maintained occupancy for ninety (90) continuous days, he shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the city. (Ord. #592, Nov. 1988)

5-504. Tax levied. The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms within the city to the city clerk; such tax shall be remitted to the clerk not later than the twentieth (20th) day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city entitled to such tax shall be that of the operator. (Ord. #592, Nov. 1988)

5-505. Responsibility to collect. The office of the city clerk shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the clerk by the operator with such number of copies thereof as the clerk may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The clerk shall audit each operator in the city at least once per year and shall report on audits made on a quarterly basis to the city council. (Ord. #592, Nov. 1988)

5-506. Restrictions upon operator. No operator of a hotel shall advertise or state in any manner whether directly or indirectly that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded. (Ord. #592, Nov. 1988)

5-507. Delinquent taxes. Taxes collected by the operator which are not remitted to the clerk on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of 12% per annum, and in addition, for penalty of 1% for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal

of a transient to pay the tax imposed is hereby declared to be unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). (Ord. #592, Nov. 1988)

5-508. Time limit to keep records. It shall be the duty of each operator liable for collection and payment to the city of any tax imposed by this act to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the city, which records the clerk shall have the right to inspect at all reasonable times. (Ord. #592, Nov. 1988)

5-509. Powers of the collector. The clerk or other authorized collector of the tax in administering and enforcing the provisions of this act shall have as additional powers, those powers and duties with respect to collecting taxes as provided by law for the county clerks.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in the Tennessee Code Annotated, title 67. The clerk shall also have all of those powers and duties as provided in Tennessee Code Annotated § 67-1-707(b) with respect to the adjustment and settlement with taxpayers of errors of taxes collected.

Any tax paid under protest shall be paid to the clerk. Any suit filed to recover taxes paid under protest shall name the mayor of the City of Winchester and the clerk of the City of Winchester in any suits brought for recovery of said tax. (Ord. #592, Nov. 1988)

5-510. Clerk's duty of collection. The clerk is hereby charged with the duty of collection of the tax herein levied and shall remit the proceeds of such tax to the general fund to the City of Winchester. (Ord. #592, Nov. 1988)

## CHAPTER 6

LITIGATION TAX

## SECTION

5-601. Assessment of tax.

5-602. Collection and disbursement of tax.

5-603. Expenditures.

5-601. Assessment of tax. (1) A litigation tax of \$5.25 shall be assessed and taxed as part of the costs in all civil cases instituted in the City Court of Winchester, Tennessee.

(2) A litigation tax of \$15.00 shall be assessed and taxed as part of the costs in all criminal cases originating in the City Court of Winchester, Tennessee. (Ord. #531, Apr. 1983)

5-602. Collection and disbursement of tax. The city clerk and/or city judge of said court shall collect said litigation tax and shall disburse from the litigation tax collected as follows:

(1) \$5.25 of each litigation tax collected on civil cases shall go to the City of Winchester Capital Improvement Fund.

(2) \$15.00 of each litigation tax collected on criminal cases shall go to the City of Winchester Capital Improvement Fund. (Ord. #531, Apr. 1983, as amended by Ord. #617, May 1991)

5-603. Expenditures. All expenditures made by the city from said funds shall be with the approval of the city council. (Ord. #531, Apr. 1983)



CHAPTER 7

PURCHASING POLICY

SECTION

- 5-701. General.
- 5-702. Definitions.
- 5-703. Purchasing agent.
- 5-704. General procedures prior to bidding.
- 5-705. Rejection of bids.
- 5-706. Conflict of interest.
- 5-707. Purchasing from employee.
- 5-708. Sealed bid requirements \$10,000.00 or greater.
- 5-709. Competitive bidding \$500.00 to \$10,000.00.
- 5-710. Purchases and contracts costing less than \$500.00.
- 5-711. Bid deposit.
- 5-712. Performance bond.
- 5-713. Record of bids.
- 5-714. Considerations in determining bid awards.
- 5-715. Award splitting.
- 5-716. Statement when award not given to low bidder.
- 5-717. Award in case of tie bids.
- 5-718. Back orders.
- 5-719. Emergency purchases.
- 5-720. Waiver of the competitive bidding process.
- 5-721. Goods and services exempt from competitive bidding.
- 5-722. Requisitions required for every purchase.
- 5-723. Procedures upon taking delivery of purchased items.
- 5-724. Property control.
- 5-725. Disposal of surplus property.
- 5-726. Employee participation in disposal of surplus property.
- 5-727. Surplus property: items consumed in the course of work thought to be worthless.
- 5-728. Surplus property: items estimated to have monetary value.
- 5-729. Surplus property: city identification removed prior to sale.
- 5-730. Liability for excess purchases.
- 5-731. Leasing of employees to other entities
- 5-732. Leasing of employees from other entities
- 5-733. Additional forms and procedures.

5-701. General. The basic responsibilities and procedures for an economical and efficient purchasing system are set forth in Tennessee Code Annotated, §§ 5-21-118 through 5-21-129. The primary objective of centralized

purchasing are cost savings through uniform consolidated purchasing practices and verification of funds availability prior to obligation.

No contract, purchase, or obligation of the City of Winchester for supplies, materials, equipment, contracted services, or rentals shall be made without the prior execution of a purchase order except in the narrow definition of emergency purchase as defined later in this section or the incidental purchase guidelines laid out below.

A primary objective of governmental accounting is to assist the administrator in controlling expenditures, including the prevention of over-spending.

The basic principle of an organized purchasing system is to plan the city's needs, develop minimum specifications, receive bids from the most bidders possible, and make the best use of the city resources.

This chapter is to supersede all previous ordinances and resolutions pertaining to the purchasing policy, authorization limits, or capitalization thresholds of the City of Winchester, Tennessee. (as added by Ord. #975, May 2015)

5-702. Definitions. For the purpose of implementing this chapter, the following definitions shall apply.

- (1) "Accept." To receive with approval or satisfaction.
- (2) "Acknowledgment." Written confirmation from the vendor to the purchaser of an order implying obligation or incurring responsibility.
- (3) "Agreement." A coming together in opinion or determination; understanding and agreement between two (2) or more parties.
- (4) "All or none." In procurement, the city reserves the right to award each item individually or to award all items on an all or none basis.
- (5) "Annual." Recurring, done, or performed every year.
- (6) "Appropriations." Public funds set aside for a specific purpose or purposes.
- (7) "Approved." To be satisfied with; admit the propriety or excellence of; to be pleased with; to confirm or ratify.
- (8) "Approved equal." Alike; uniform; on the same plane or level with respect to efficiency, worth, value, amount or rights.
- (9) "Attest." To certify to the verity of a public document formally by signature; to affirm to be true or genuine.
- (10) "Award." The presentation of a contract to a vendor; to grant; to enter into with all required legal formalities.
- (11) "Awarded bidder." Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the city
- (12) "Back order." The portion of a customer's order undelivered due to temporary unavailability of a particular product or material.

(13) "Bid." A vendor's response to an invitation for bids or request for proposal; the information concerning the price or cost of materials or services offered by a vendor.

(14) "Bidder." Any individual, company, firm, corporation, partnership or other organization or entity bidding on solicitations issued by the city and offering to enter into contracts with the city.

(15) "Bid bond." An insurance agreement in which a third party agrees to be liable to pay a certain amount of money should a specific vendor's bid be accepted and the vendor fails to sign the contract as bid.

(16) "Bid file." A folder containing all of the documentation concerning a particular bid. This documentation includes the names of all vendors to whom the invitation to bid was mailed, the responses of the vendors, the bid tabulation forms and any other information as may be necessary.

(17) "Bid opening." The opening and reading of the bids, conducted at the time and place specified in the invitation for bids and in the presence of anyone who wishes to attend.

(18) "Bid solicitation." Invitations for bids.

(19) "Blanket bid order." A type of bid used by buyers to purchase repetitive products. The city establishes its need for a product for a specified period of time. The vendor is then informed of the city's expected usage during the duration of the proposed contract. The city may then order small quantities of these items from the vendor, at the bid price, over the term of the contract.

(20) "Business." Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or legal entity through which business is conducted.

(21) "Cancel." To revoke a contract or bid.

(22) "Capital items." Equipment which has a life expectancy of one (1) year longer and a value in excess of five thousand dollars (\$5,000.00). Additionally, real estate shall be considered a capital item.

(23) "Cash discount." A discount from the purchase price allowed to the purchaser if payment is made within a specified period of time.

(24) "Caveat emptor." Let the buyer beware; used in proposals or contracts to caution a buyer to avoid misrepresentation.

(25) "Certify." To testify in writing; to make known or establish as a fact.

(26) "City." The City of Winchester, Tennessee.

(27) "Competitive bidding." Bidding on the same undertaking or material items by more than one (1) vendor.

(28) "Conspicuously." To be prominent or obvious; located, positioned, or designed to be noticed.

(29) "Construction." The building, alteration, demolition, or repair of public buildings, structures, highways and other improvements or additions to real property.

(30) "Contract." An agreement, grant, or order for the procurement, use, or disposal of supplies, services, construction, insurance, real property or any other item.

(31) "Date." Recorded information, regardless of form or characteristic.

(32) "Delivery schedule." The required or agreed upon rate of delivery of goods or services.

(33) "Discount for prompt payment." A predetermined discount offered by a vendor for prompt payment.

(34) "Encumber." To reserve funds against a budgeted line item; to charge against an account.

(35) "Evaluation of bid." The process of examining a bid to determine a bidder's responsibility, responsiveness to requirements, qualifications, or other characteristics of the bid that determine the eventual selection of a winning bid.

(36) "Fiscal year." An accounting period of twelve (12) months, July 1 through June 30.

(37) "F.O.B. destination." An abbreviation for free on board that refers to the point of delivery of goods. The seller absorbs the transportation charges and retains title to and responsibility for the goods until the City of Winchester, Tennessee has received and signed for the goods.

(38) "Goods." All materials, equipment, supplies, and printing.

(39) "Incidental purchases." Purchases for an item or group of items that are under one hundred fifty dollars (\$150.00) in value and a part of daily operations.

(40) "Invitation for bid." All documents utilized for soliciting bids.

(41) "Invoice." A written account of merchandise and process, delivered to the purchaser; a bill.

(42) "Lead time." The period of time from the date of ordering to the date of delivery which the buyer must reasonably allow the vendor to prepare goods for shipment.

(43) "Life cycle costing." A procurement technique that considers the total cost of purchasing, maintaining, operating, and disposal of a piece of equipment when determining the low bid.

(44) "Local bidder." A bidder who has and maintains a business office located within the corporate city limits of Winchester, Tennessee.

(45) "Material receiving report." A form used by the department head or supervisor to inform others of the receipt of good purchased.

(46) "Performance bond." A bond given to the purchaser by a vendor or contractor guaranteeing the performance of certain services or delivery of goods within a specified period of time. The purpose is to protect the purchaser against a cash loss which might result if the vendor did not deliver as promised.

(47) "Pre-bid conference." A meeting held with potential vendors a few days after an invitation for bids has been issued to promote uniform interpretation of work statements and specifications by all prospective contractors.

(48) "Procurement or purchasing." Buying, renting, leasing, or otherwise obtaining supplies, services, construction, insurance or any other item. It also includes functions that pertain to the acquisition of such supplies, services, construction, insurance and other items, including descriptions of requirements, selection and solicitation of sources, preparation and award of contracts, contract administration, and all phases of warehousing and disposal.

(49) "Public." Open to all.

(50) "Public purchasing unit." Means the State of Tennessee, any county, city, town, governmental entity and other subdivision of the State of Tennessee, or any public agency, or any other public authority.

(51) "Purchasing order." A legal document used to authorize a purchase from a vendor. A purchase order, when given to a vendor, should contain statements about the quantity, description, and price of goods or services ordered, agreed terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.

(52) "Reject." Refuse to accept, recognize, or make use of; repudiate, to refuse to consider or grant.

(53) "Requisition." A purchase requisition lets the city administrator and/or finance director know what the using department needs. A requisition is required for making purchases, requesting price information, initiating a bid request, and requesting governing body approval major expenditures.

(54) "Responsive bidder." One who has submitted a bid which conforms in all materials respects to the invitation for bids.

(55) "Sealed." Secured in any manner so as to be closed against the inspection of contents.

(56) "Sole source procurement." An award for a commodity which can only be purchased from one (1) supplier, usually because of its technological, specialized, or unique character.

(57) "Specifications." Any description of the physical or functional characteristics of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

(58) "Standardization." The making, causing, or adapting of items to conform to recognized qualifications.

(59) "Telephone bids." Contacting at least two (2) vendors to obtain verbal quotes for items of a value of less than five hundred dollars (\$500.00).

(60) "Using department." The city department seeking to purchase goods and services or which will be the ultimate user of the purchased goods and services.

(61) "Vendor." The person who transfers property, goods, or services by sale. (as added by Ord. #975, May 2015)

5-703. Purchasing agent. The city finance officer shall be the purchasing agent for the municipality. Except as otherwise provided in this policy, all supplies, materials, equipment, and services of any nature shall be assigned a purchase order number and verified to see that all requirements for purchase have been completed. Once such requirements have been verified, the purchase may be approved and acquired by the purchasing agent or by the using department. (as added by Ord. #975, May 2015)

5-704. General procedures prior to bidding. The following procedures shall be followed by all city employees when purchasing goods or services on behalf of the city.

(1) Items deemed to be a capital purchase and expected to cost more than five thousand dollars (\$5,000.00).

(a) The department head of the using department shall deliver to the purchasing agent a written purchase request for the item(s) to be purchased. Such request shall include a brief description of the item(s) to be purchased, specifications for the item being purchased, the estimated cost of the items.

(b) The purchasing agent shall review the purchase request for completeness and accuracy as required by this chapter. The request shall then be forwarded to the mayor and council for review and approval. The council shall have the authority to adjust or eliminate various specifications for goods and services, or may disapprove the purchase request, to comply with city policy, the annual budget, or for any other reason it deems in the public interest.

(c) All approved purchase requests shall be signed by the city administrator and returned to the purchasing agent who shall proceed with procurement in compliance with this chapter.

(2) Items deemed to be operating supplies and expected to cost five hundred dollars (\$500.00) to ten thousand dollars (\$10,000.00).

(a) The department head of the using department shall deliver to the purchasing agent a written purchase request for the item(s) to be purchased. Such request shall include a brief description of the item(s) to be purchased, specifications for the item(s) being purchased, and the estimated cost of the item(s).

(b) The purchasing agent shall review the purchase request for completeness and accuracy. The request shall then be forwarded to the city administrator for final review and approval. The city administrator shall not approve the purchase of any item not approved in the annual budget or for which there are not sufficient funds in the city treasury. The city administrator shall have the authority to adjust or eliminate various specifications for goods or services to comply with city policy, the annual budget, or to avoid depletion of the city treasury.

(c) All approved purchase requests shall be signed by the city administrator and returned to the purchasing agent who shall proceed with procurement in compliance with this chapter. (as added by Ord. #975, May 2015)

5-705. Rejection of bids. The purchasing agent shall have the authority to reject any and all bids, parts of bids, or all bids for any one (1) or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The purchasing agent shall not accept the bid of a vendor or contractor who is in default on the payment of taxes, licenses, fees or other monies of whatever nature that may be due the city by said vendor or contractor. (as added by Ord. #975, May 2015)

5-706. Conflict of interest. All employees who participate in any phase of the purchasing function are to be free of interests or relationships which are actually or potentially hostile or detrimental to the best interests of the City of Winchester and shall not engage in or participate in any commercial transaction involving the city, in which they have a significant interest. (as added by Ord. #975, May 2015)

5-707. Purchasing from employee. It shall be the policy of the city not to purchase any goods or services from any employee or close relative of any city employee without the prior approval of the mayor and council approval. (as added by Ord. #975, May 2015)

5-708. Sealed bid requirements \$10,000.00 or greater. (1) On all purchases and contracts estimated to be in excess of ten thousand dollars (\$10,000.00), except as otherwise provided in this chapter, formal sealed bids shall be submitted at a specified time and place to the purchasing agent. The purchasing agent shall submit all such bids for award by the mayor and council at the next regularly scheduled council meeting or special-called meeting together with the recommendation as to the lowest responsive bidder.

(2) Notice inviting bids shall be published at least once in a newspaper of general circulation in Franklin County, and at least five (5) days preceding the last day to receive bids. The newspaper notice shall contain a general description of the article(s) to be secured, and the date, time, and place for opening bids.

(3) In addition to publication in a newspaper, the purchasing agent may take other actions deemed appropriate to notify all prospective bidders of the invitation to bid, including, but not limited to, advertisement in community bulletin boards, metropolitan newspapers, professional journals, and electronic media. (as added by Ord. #975, May 2015)

5-709. Competitive bidding \$500.00 to \$10,000.00. (1) All purchases of supplies, equipment, services, and contracts estimated to be in excess of five hundred dollars (\$500.00) but less than ten thousand dollars (\$10,000.00), shall be by competitive bidding and may be awarded to the lowest responsive bidder.

(2) A written record shall be required and available for public inspection showing that competitive bids were obtained by one (1) of the following methods:

- (a) Direct mail advertisement.
- (b) Telephone bids.
- (c) Public notice.

(3) In the purchasing agent's absence, the city administrator shall designate a suitable substitute to perform the purchasing agent's duties. (as added by Ord. #975, May 2015)

5-710. Purchases and contracts costing less than \$500.00. The department head is expected to obtain the best prices and services available for purchases and contracts estimated to be less than five hundred dollars (\$500.00), but is exempted from the formal bid requirements specified in §§ 5-707 and 5-708 of this chapter. (as added by Ord. #975, May 2015)

5-711. Bid deposit. When necessary, bid deposits deemed may be prescribed and noted in the public notices inviting bids. The deposit shall be in such amount as the purchasing agent shall determine and unsuccessful bidders shall be entitled to a return of such deposits within ten (10) calendar days of the bid opening. A successful bidder shall forfeit any required deposit upon failure on his/her part to enter a contract within ten (10) days after the award. (as added by Ord. #975, May 2015)

5-712. Performance bond. The purchasing agent may require a performance bond before entering into a contract, in such amount as he/she shall find reasonably necessary to protect the best interests of the city and furnishers of labor and materials in the penalty of not less than the amount provided by Tennessee Code Annotated. (as added by Ord. #975, May 2015)

5-713. Record of bids. The purchasing agent shall keep a record of all open market orders and bids submitted in competition thereon, including a list of the bidders, the amount bid by each, and the method of solicitation and bidding, and such records shall be open to public inspection and maintained in the city recorder's office. As a minimum, the bid file shall contain the following information:

- (1) Request to start bid procedures.
- (2) A copy of the bid advertisement.
- (3) A copy of the bid specifications.



(4) A list of bidders and their responses. (as added by Ord. #975, May 2015)

5-714. Considerations in determining bid awards. The following criteria shall be considered in determining all bid awards:

(1) The ability of the bidder to perform the contract or provide the material or service required.

(2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.

(3) The character, integrity, reputation, judgment, experience, and efficiency of the bidder.

(4) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.

(5) The quality of performance of previous contracts or services, including the quality of such contracts or services in other municipalities, or performed for private sector contractors.

(6) The sufficiency of financial resources and the ability of the bidder to perform the contract or provide the service.

(7) The ability of the bidder to provide future maintenance and service for the use of the supplies or contractual service contracted.

(8) Compliance with all specifications in the solicitation for bids.

(9) The ability to deliver and maintain any requisite bid bonds or performance bonds.

(10) Total cost of the bid, including life expectancy of the commodity, maintenance costs, and performance. (as added by Ord. #975, May 2015)

5-715. Award splitting. If total savings generated is less than two hundred dollars (\$200.00), bids awards shall not be split among two (2) or more bidders. (as added by Ord. #975, May 2015)

5-716. Statement when award not given to low bidder. When the award for purchases or contracts in excess of five hundred dollars (\$500.00) is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent or department head and filed with all other papers and documents related to the bidding. (as added by Ord. #975, May 2015)

5-717. Award in case of tie bids. When two (2) or more vendors have submitted the low bid, the following criteria shall be used to award the bid:

(1) If all bids received are for the same amount, quality of service being equal, the purchase contract shall be awarded to the local bidder.

(2) If two (2) or more local bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.

(3) If no local bids are received and two (2) or more out-of-town bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.

(4) When the award is to be decided by coin toss or drawing lots, representatives of the bidders shall be invited to observe. In no event shall such coin toss or drawing lots be performed with less than three (3) witnesses. (as added by Ord. #975, May 2015)

5-718. Back orders. All orders must be completed, whether through complete fulfillment of the purchase order or through closing the purchase order with items not received. The non-delivered items shall be cancelled from the purchase order and the check will be issued to the equal amount of the amended purchase order. (as added by Ord. #975, May 2015)

5-719. Emergency purchases. When in the judgment of the purchasing agent an emergency exists, the provisions of this chapter may be waived; provided, however, the purchasing agent shall report the purchases and/or contracts to the mayor and city council at the next regular council meeting stating the item(s) purchased, the amount(s) paid, from whom the purchase(s) was made, and the nature of the emergency. (as added by Ord. #975, May 2015)

5-720. Waiver of the competitive bidding process. Upon the recommendation of the city administrator, and the subsequent approval of the mayor and council, that it is clearly to the advantage of the city not to contract by competitive bidding, the requirements of competitive bidding may be waived provided that the following criteria are met and documented in a written report to the mayor and council:

(1) Single source of supply. The availability of only one (1) vendor of a product or service within a reasonable distance of the city as determined after a complete and thorough search by the using department and the purchasing agent.

(2) State department of general services. A thorough effort was made to purchase the product or service through or in conjunction with the state department of general services or via a state contract, such effort being unsuccessful.

(3) Purchase from other governmental entities. A thorough effort was made to purchase the product or service through or in conjunction with other municipalities or from any federal or state agency. These purchases may be made without competitive bidding and public advertisement.

(4) Purchases from non-profit organizations. A thorough effort was made to purchase the goods or services from any non-profit organization whose sole purpose is to provide goods and services specifically to municipalities.

(5) Purchases from Tennessee state industries. A thorough effort was made to purchase the goods or services from Tennessee state industries (prison industries).

(6) Purchases from instrumentalities created by two or more co-operating governments. An effort was made to purchase the goods or services from a co-op or group of governments which was formed to purchase goods and services for their members. (as added by Ord. #975, May 2015)

5-721. Goods and services exempt from competitive bidding. The following goods and services need not be awarded on the basis of competitive bidding; provided, however, that the purchasing agent and/or the department head shall make a reasonable effort to assure that such purchases are made efficiently and in the best interest of the city:

(1) Certain insurance. The city may purchase tort liability insurance, without competitive bidding, from the Tennessee Municipal League or any other plan offered by a governmental entity representing cities and counties. All other insurance plans, however, are to be awarded on the basis of competitive bidding.

(2) Certain investments. The city may make investments of municipal funds in, or purchases from, the pooled investment fund established pursuant to Tennessee Code Annotated, § 9-17-105.

(3) Motor fuel, fuel products, or perishable commodities. Such commodities may be purchased without competitive bidding when purchases are made in the open market. This exemption is not designed to discourage competitive bidding.

(4) Professional service contracts. Any services of a professional person or firm, including attorneys, accountants, physicians, architects, engineers, and other consultants required by the city, may be hired without competitive bidding. In those instances where such professional service fees are expected to exceed five hundred dollars (\$500.00), a written contract shall be developed and approved by the mayor and council prior to the provision of any goods or services. Contracts for professional services shall be awarded; rather, professional service contracts shall be awarded on the basis of recognized competence and integrity. Any contract service should have a W-9 form completed prior to making payment, unless services are from an incorporated entity. (as added by Ord. #975, May 2015)

5-722. Requisitions required for every purchase. A requisition, as defined in this chapter, shall be completed by the department head prior to the ordering of all goods and services to be acquired by the City of Winchester, Tennessee, for any purchase totaling one hundred fifty dollars (\$150.00) or greater whether or not bidding was required for the purchase. The department head shall forward a copy of each such requisition to the purchasing agent for placement in the purchasing file. (as added by Ord. #975, May 2015)

5-723. Procedures upon taking delivery of purchased items. Before accepting delivery purchased equipment, supplies, materials and other tangible goods, the department head of the using department shall:

- (1) Inspect the goods to verify that they are in acceptable condition.
- (2) Verify that all operating manuals and warranty cards are included in the delivery of the goods, if applicable.
- (3) Verify that the number of items purchased have been delivered, making special note when part or all of a particular purchase has been back ordered.
- (4) Record serial numbers on appropriate forms for all capital items, notifying the appropriate administrative assistant appointed by the city administrator of same.
- (5) Complete and return to the purchasing agent a material receiving report form or a signed packing slip with the required information. (as added by Ord. #975, May 2015)

5-724. Property control. A physical inventory of the city's fixed assets shall be taken annually. The goals of the annual inventory shall be as follows:

- (1) To identify unneeded and duplicate assets.
- (2) To provide a basis for insurance claims, if necessary.
- (3) To deter the incidence of theft and negligence.
- (4) To aid in the establishment of replacement schedules for equipment.
- (5) To note transfers of surplus property.

To be classified as a fixed asset, an item must be tangible, have an expected life longer than the current fiscal year, and have a value of at least five thousand dollars (\$5,000.00). Any property or equipment that meets this criteria shall be assigned an asset number (affixed with a property sticker), and be inventoried annually. Such records shall be controlled and maintained by the applicable department head and appointed administrative assistant. These records shall be kept in an updated and current condition and subject to periodic audit. Computer print outs with appropriate information shall be acceptable if signed by the department head.

These fixed assets greater than five thousand dollars (\$5,000.00) shall be considered capital assets, and be capitalized upon purchase or completion of project. Capital assets, which include property, plant, equipment, and infrastructure assets (e.g., roads, bridges, sidewalks and similar items), are reported in the applicable governmental or business- type activities columns in the government-wide financial statements. These should be recorded in the inventory as well as in the appropriate asset account. They should be recorded at historical cost or estimated cost if purchased or constructed. Capital assets that are donated are to be recorded at their estimated fair value at the date of donation. Capital assets are to be depreciated over the useful life of the assets. Below are the life for common purchases. Any purchase not listed may be

determined by the city administrator and finance officer, but must be documented in the inventory listing.

Useful life

Buildings	40-50 years
Improvements other than buildings	10-20 years
Machinery, equipment and vehicles	5-10 years
Road system infrastructure	10-45 years
Sidewalks	30 years
Bridges	50 years

All items deemed small items of equipment or sensitive items will be maintained in an inventory system separate from that of the capital assets. The department heads will maintain an inventory that is submitted quarterly to the finance office to be updated into the database. When applicable the small items/sensitive items will be tagged upon purchase. (as added by Ord. #975, May 2015)

5-725. Disposal of surplus property. The purchasing agent shall be in charge of the disposal of surplus property and make a full report to the mayor and council after the items are disposed of. When a department head determines there is surplus equipment or materials within the department, he/she shall notify the purchasing agent in writing of any such equipment. The purchasing agent may transfer surplus equipment or materials from one department to another. If deemed unneeded in other departments, the department head may request items to be placed on Gov.Deals for sale. (as added by Ord. #975, May 2015)

5-726. Employee participation in disposal of surplus property. No city employee, mayor and council, purchasing agent or department head shall be given surplus property. For the purposes of this chapter, members of the mayor and council shall be considered city employees. (as added by Ord. #975, May 2015)

5-727. Surplus property: items consumed in the course of work thought to be worthless. City property which may be consumed in the course of normal city business and items thought to be worthless shall be disposed of in a like manner as any other refuse. For accounting purposes, such items shall be charged off as a routine cost of doing business. (as added by Ord. #975, May 2015)

5-728. Surplus property: items estimated to have monetary value. When disposing of surplus property estimated to have monetary value, the purchasing

agent, in conjunction with the department head, shall comply with the following procedures:

(1) Obtain from the mayor and council approval declaring said items to be surplus property through GovDeals.com.

(2) Such equipment or materials shall be sold to the highest bidder. In the event the highest bidder is unable to pay within five (5) days, the item shall be placed back for sale.

(3) All pertinent information concerning the sale shall be noted in the fixed asset records of the city.

(4) The advertisement, bids, and property cards shall be retained for a minimum period of five (5) years.

In the case that materials with monetary value are created during the daily operations (ex: scrap metal), the items are to be sold at the local recycling center for the best price available to aid in the operational cost of the city. (as added by Ord. #975, May 2015)

5-729. Surplus property: city identification removed prior to sale. No surplus city property shall be sold unless and until all decals, emblems, lettering, or coloring which identifies the item as belonging to the City of Winchester have been removed or repainted. (as added by Ord. #975, May 2015)

5-730. Liability for excess purchases. This chapter shall authorize only the purchase of materials and supplies and the procurement of contracts for which funds have been appropriated and are within the limits of the funds estimated for each department in the annual budget or which have been authorized and lawfully funded by the mayor and council. The city shall have no liability for any purchase made in violation of this chapter. (as added by Ord. #975, May 2015)

5-731. Leasing of employees to other entities. This chapter authorizes the leasing of employees to other entities in which a similar interest and general purpose of the city arises. The leased employees shall keep a time sheet approved by the city administrator that will be used to bill the entity for hours the employee's works for the leasing entity. Billing shall occur at a minimum of quarterly and no more than once a month. A signed contract shall be kept on file by both parties and reviewed on an annual basis. (as added by Ord. #975, May 2015)

5-732. Leasing of employees from other entities. This chapter authorizes the leasing of employees from other entities in which a similar interest and general purpose of the city arises. The leased employees shall keep a time sheet approved by their direct supervisor to be used in no more than monthly billing and at a minimum quarterly billing to the city. A signed contract shall be kept

on file by both parties and reviewed on an annual basis. (as added by Ord. #975, May 2015)

5-733. Additional forms and procedures. The purchasing agent is hereby authorized and directed to develop such forms and procedures as are necessary to comply with this chapter. (as added by Ord. #975, May 2015)

TITLE 6

LAW ENFORCEMENT<sup>1</sup>

CHAPTER

1. POLICE DEPARTMENT.
2. ARREST PROCEDURES.
3. [DELETED.]

CHAPTER 1

POLICE DEPARTMENT

SECTION

- 6-101. Policemen subject to the chain of command within the police department.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Police department records.
- 6-104. Policemen to wear uniforms and be properly equipped.

6-101. Policemen subject to the chain of command within the police department. A chain of command will be established within the police department that will clearly identify positions of authority. Such positions shall be established as the need requires upon approval of the Winchester City Council. Police department personnel are to comply with the ranking officer's orders, and administrative rules and regulations as adopted by the city council. (1983 Code, § 1-501, as replaced by Ord. #699, April 1996, and renumbered and amended by Ord. #824, July 2004)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1983 Code, § 1-502, as renumbered by Ord. #824, July 2004)

6-103. Police department records. The police department shall keep a comprehensive and detailed daily record, in permanent form, showing at a minimum:

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

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<sup>1</sup>Municipal code reference

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



- (2) All arrests made by policemen.
- (3) All police investigations made, funerals, convoyed, fire calls answered, and other miscellaneous activities of the police department.
- (4) Any other records required to be kept by the mayor and city council or by law.

The ranking officer in the department shall be responsible for insuring that the police department complies with the section. (1983 Code, § 1-507, as amended by Ord. #699, April 1996, and renumbered by Ord. #824, July 2004)

6-104. Policemen to wear uniforms and be properly equipped. All policemen shall wear such uniform and badge as the governing body shall authorize and shall carry the appropriate equipment as issued by the police department while on duty unless otherwise expressly directed by the ranking officer for a special assignment. (1983 Code, § 1-503, as replaced by Ord. #699, April 1996, and renumbered by Ord. #824, July 2004)

CHAPTER 2

ARREST PROCEDURES

SECTION

6-201. When policemen to make arrests.

6-202. Disposition of persons arrested.

6-203. policemen may require assistance.

6-201. When policemen to make arrests.<sup>1</sup> 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. (1983 Code, § 1-504, as renumbered by Ord. #824, July 2004)

6-202. Disposition of persons arrested. Unless otherwise authorized by law, when any person is arrested he shall be brought before the appropriate court for immediate trial or allowed to post bond. When a judge is not immediately available or the alleged offender does not post the required bond, he shall be confined. (1983 Code, § 1-506, as replaced by Ord. #699, April 1996, and renumbered by Ord. #824, July 2004)

6-203. 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. (1983 Code, § 1-505, as renumbered by Ord. #824, July 2004)

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<sup>1</sup>Municipal code reference

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

CHAPTER 3

[DELETED]

This chapter was deleted by Ord. #699, April 1996,  
and renumbered by Ord. #824, July 2004.

TITLE 7

FIRE PROTECTION AND FIREWORKS<sup>1</sup>

CHAPTER

1. FIRE DISTRICTS.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. MISCELLANEOUS.
5. FIREWORKS.

CHAPTER 1

FIRE DISTRICTS<sup>2</sup>

SECTION

- 7-101. First fire district.  
7-102. Second fire district.

7-101. First fire district. All of the property now or hereafter zoned for commercial and industrial uses is hereby declared to be the first fire district of the city, and shall be the fire district referred to in Chapter 30 of the Standard Building Code, 1991 edition. (1983 Code, § 7-101, modified)

7-102. Second fire district. The second fire district shall embrace all of the territory within the city lying without the boundaries set out in section 7-101 above. (1983 Code, § 7-102)

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<sup>1</sup>Municipal code reference

Building, utility and housing code: title 12.

<sup>2</sup>The significance of the fire district is that Chapter 30 of the Standard Building Code, applicable to the City of Winchester through title 12 of this code, imposes certain construction, modification and other requirements peculiar to buildings located within the fire district, and prohibits Hazardous (Group H) occupancies within the fire district. Chapter 4, Section 408 of the Standard Building Code defines Hazardous (Group H) occupancy in both general and specific terms, but generally it refers to occupancies involving highly combustible, flammable or explosive materials.

CHAPTER 2

FIRE CODE<sup>1</sup>

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Electrical wiring installed in first fire district.
- 7-206. Modifications.
- 7-207. Appeals.
- 7-208. Violations and penalty.

7-201. Fire code adopted. (1) Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the International Fire Code,<sup>2</sup> 2006 edition and the NFPA 101 Life Safety Code, 2006 edition have been filed with the city clerk.

(2) Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Fire Code, 2006 edition and one (1) copy of the NFPA 101 Life Safety Code,<sup>3</sup> 2006 edition has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #597, Apr. 1989, modified, as amended by Ord. #729, June 1998, modified, and replaced by Ord. #922, Oct. 2010)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the Winchester Fire Department through its appointed designee who shall have the same powers as the state fire marshal. (1983 Code, § 7-202, as replaced by Ord. #699, April 1996)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the code herein adopted, it shall be held to mean the City of Winchester, Tennessee. (1983 Code, § 7-203)

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<sup>1</sup>Municipal code reference  
Building, utility and housing codes: title 12.

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

<sup>3</sup>Copies of this code are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269.

7-204. Storage of explosives, flammable liquids, etc. (1) The district referred to in section 1901.4.2 of the fire prevention code, in which storage of explosives and blasting agents is prohibited, is hereby declared to be the first fire district as set out in section 7-101 of this code.

(2) The district referred to in section 902.1.1 of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, is hereby declared to be the first fire district as set out in section 7-101 of this code.

(3) The district referred to in section 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, is hereby declared to be the first fire district as set out in section 7-101 of this code.

(4) The district referred to in section 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, is hereby declared to be the first fire district as set out in section 7-101 of this code. (1983 Code, § 7-204, modified)

7-205. Electrical wiring installed in first fire district. All electrical wiring installed within the fire district shall meet all applicable codes adopted by the governing body. All electrical wiring installed within the first fire district of the city shall be encased in conduit.<sup>1</sup> (1983 Code, § 7-205, as amended by Ord. #699, April 1996)

7-206. Modifications. (1) Definitions. Whenever in the International Fire Code and the NFPA 101 Life Safety Code, 2006 edition, reference is made to the duties of a certain official named therein, that designated official of the City of Winchester, who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the International Building Code are concerned.

(2) Permit fees. The schedule of permit fees shall be as determined by the Council of the City of Winchester, Tennessee by ordinance from time to time. A copy of such fees shall be available in the office of the city recorder. (1983 Code, § 7-206, as replaced by Ord. #699, April 1996, and Ord. #922, Oct. 2010)

7-207. Appeals. Whenever the appointed designee of the fire department disapproves an application or refuses to grant a permit applied for under section 7-206 above, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal that decision to the fire chief. If at the end of thirty (30) days a satisfactory resolution has not been met, the applicant may continue the appeal to the Winchester City Council at the next regularly scheduled council meeting. The decision of the city council shall be

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

final and binding. (1983 Code, § 7-207, as replaced by Ord. #699, April 1996, and amended by Ord. #824, July 2004)

7-208. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the International Fire Code, 2006 edition and the NFPA 101 Life Safety Code, 2006 edition as herein adopted by reference. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. Remedial fines and penalties may be assessed to bring violations into compliance after legal notice. (1983 Code, § 7-208, as replaced by Ord. #699, April 1996, and Ord. #922, Oct. 2010)

CHAPTER 3

FIRE DEPARTMENT<sup>1</sup>

SECTION

7-301. Created; purpose.

7-302. Firefighters subject to chain of command within the fire department.

7-303. Duties of fire department personnel.

7-304. Members.

7-305. Equipment.

7-306. Traffic regulations.

7-307. Maliciously causing false alarms.

7-301. Created; purpose. A department known as the Winchester Fire Department, the object of which shall be the prevention of fire and the protection of life and property within the limits of the city, is hereby created. (1983 Code, § 7-301)

7-302. Firefighters subject to chain of command within the fire department. The fire department shall consist of a chief, who shall supervise all fire department personnel, and such other assistants and personnel as deemed necessary by the city council. (1983 Code, § 7-302, as amended by Ord. #559, Jan. 1986; Ord. #699, April 1996; and Ord. #824, July 2004)

7-303. Duties of fire department personnel. Duties of the fire department personnel shall be assigned by the fire chief, or his designated assistants. Job descriptions for the fire department personnel shall be developed and under the custodial supervision of the city administrator. (1983 Code, § 7-303, as replaced by Ord. #699, April 1996, and amended by Ord. #824, July 2004)

7-304. Members. (1) Each member of the department shall be issued a badge designating his rank.

(2) Recommendations of apparatus and equipment. Recommendations of apparatus and equipment shall be made by the fire chief. The fire chief shall make requests for purchase in such manner as may be designated by the city council.

(3) All regularly appointed members of the department are hereby given the necessary special police powers for the purpose of enforcing the provisions of this article. (1983 Code, § 7-304, as amended by Ord. #559, Jan. 1986, and Ord. #824, July 2004)

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<sup>1</sup>Municipal code reference

Department of Safety oversees the Fire department, see section 6-101.



7-305. Equipment. (1) The department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire.

(2) All equipment of the department shall be safely and conveniently housed in such places as may be designated by the city council. Such places shall be heated during the winter season.

(3) Suitable arrangements or equipment shall be provided for citizens to turn in an alarm, and for notifying all members of the department so that they may promptly respond.

(4) No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the department.

(5) No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the department unless accompanied by, or having the special permission of, an officer or authorized member of the department. (1983 Code, § 7-305, as amended by Ord. #699, April 1996, and Ord. #824, July 2004)

7-306. Traffic regulations. (1) All motor equipment and all personal cars of department members shall have right-of-way over all other traffic when responding to an alarm; however, traffic signs and laws shall be observed.

(2) No person shall drive any vehicle over fire hose except upon specific orders from the ranking officer in charge where the hose is used.

(3) No person shall park any vehicle or otherwise cause any obstruction to be placed within twenty-five (25) feet of the entrance to any fire station or other place where fire apparatus is stored, or within fifteen (15) feet of any fire hydrant.

(4) No unauthorized person with any vehicle shall follow within six hundred (600) feet of any apparatus belonging to the department, or park any vehicle within three hundred (300) feet of a fire.

(5) All persons who shall be upon the streets of the City of Winchester at any time when the fire siren or alarm shall sound, whether they be pedestrian or whether they be riding in any sort of a vehicle, shall, immediately upon the sounding of such fire alarm, if walking, remain upon the sidewalks and not attempt to cross or walk upon the streets, and if they be riding in a vehicle, shall immediately bring such vehicle to rest at a parking place or alongside the curb of the street, and such persons shall so remain until after the passing of the

fire engine and department. (1983 Code, § 7-306, as amended by Ord. #699, April 1996)

7-307. Maliciously causing false alarms. Any person maliciously giving, or causing to be given, a false alarm of fire shall be deemed guilty of a misdemeanor. (1983 Code, § 7-307, as amended by Ord. #699, April 1996)

CHAPTER 4<sup>1</sup>

MISCELLANEOUS

SECTION

7-401. Reference to public safety department in code replaced.

7-401. Reference to public safety department in code replaced. Any other references in the Winchester Municipal Code to the public safety department are amended to reference the police department or fire department as appropriate. (1983 Code, § 7-401, as replaced by Ord. #699, April 1996, and Ord. #824, July 2004)

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<sup>1</sup>The original title 7 chapter 4 "Mutual Aid Agreements" was replaced by Ord. #824, July 2004.

## CHAPTER 5

FIREWORKS

## SECTION

- 7-501. Purpose.
- 7-502. Definition of terms.
- 7-503. Permits required.
- 7-504. Permit fee.
- 7-505. Privilege licenses required.
- 7-506. Permissible type of fireworks.
- 7-507. Conditions for sale and use permissible items.
- 7-508. Retail sale of permissible items - time limitations - exceptions.
- 7-509. Public displays - permits - regulation.
- 7-510. Regulations governing storing, locating or display of fireworks.
- 7-511. Unlawful acts in the sale, handling or private use of fireworks.
- 7-512. Seizure and destruction of fireworks.
- 7-513. Penalty for violation.
- 7-514. Exceptions to application.

7-501. Purpose. The purpose of this chapter is to provide for the manufacture, sale, display and use of certain fireworks for both private and public display within the corporate limits of the City of Winchester, Tennessee within certain guidelines which shall provide for the general safety and welfare of the citizens thereof. (1983 Code, § 7-501, as replaced by Ord. #699, April 1996; and further replaced by Ord. #722, June 1997)

7-502. Definition of terms. As used in this chapter, the following terms shall have the meaning ascribed to them herein, unless clearly indicated otherwise;

(1) "Distributor" means any person engaged in the business of making sales of fireworks to any other person engaged in the business of reselling fireworks either as a retailer, wholesaler, or any person who receives, brings or imports any fireworks of any kind, in any manner into the city of Winchester, except to a holder of a manufacturer's distributor's or wholesaler's permit issued by the state fire marshal and the Winchester Fire Department.

(2) "D.O.T. Class C common fireworks" means all articles of fireworks as are now or hereafter classified as "D.O.T. Class C common fireworks" in the regulations of the United States Department of Transportation for transportation of explosive and other dangerous articles;

(3) "Manufacturer" means any person engaged in the making, manufacture or construction of fireworks of any kind within the City of Winchester.

(4) "Permit" means the written authority of the Winchester Fire Department issued under the authority of this chapter;

(5) "Person" means any individual, firm, partnership or corporation;

(6) "Retailer" means any person engaged in the business of making retail sales of fireworks at specified times during the year as provided herein;

(7) "Sale" means an exchange of articles of fireworks for money and also includes the barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as principal, proprietor, salesman, agent, association, copartnership, or any one (1) or more individuals;

(8) "Special fireworks" means all articles of fireworks that are classified as Class B explosives in the regulations of the United States Department of Transportation and includes all articles other than those classified as Class C. (as added by Ord. #722, June 1997)

7-503. Permits required. It shall be unlawful for any person to manufacture, sell, offer for sale, ship or cause to be shipped into the City of Winchester except as herein provided any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler or retailer, from both the City of Winchester and the state fire marshal (as required by T.C.A. 68-104-101 et seq.), possession of said permits being hereby made a condition prerequisite to manufacturing, selling or offering for sale, shipping or causing to be shipped any fireworks into the City of Winchester except as herein provided. Permits issued under this section are not transferable. (as added by Ord. #722, June 1997)

7-504. Permit fee. The permit fee for the permit provided for in section 7-503 of this chapter shall be five hundred dollars (\$500.00) and the permit shall be valid for twelve (12) months. However, the City Council of Winchester may in its discretion waive the permit fee for any non-profit organization requesting the permit. (as added by Ord. #722, June 1997)

7-505. Privilege licenses required. The issuance of permits provided for herein shall not replace or relieve any person of state, county or municipal privilege licenses as now or hereafter provided by law. (as added by Ord. #722, June 1997)

7-506. Permissible type of fireworks. It is unlawful for any individual, firm, partnership or corporation to possess, sell or use within the City of Winchester, or ship into the City of Winchester, except as provided in this chapter, any pyrotechnics commonly known as "fireworks" other than the following permissible items:

(1) Those items now or hereafter classified as D.O.T. Class C common fireworks; or

(2) Those items that comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations. (as added by Ord. #722, June 1997)

7-507. Conditions for sale and use of permissible items. No permissible articles of common fireworks shall be sold, offered for sale, or possessed within the City of Winchester, or used within the city, except as herein provided unless it is properly named to conform to the nomenclature and unless it is certified as "common fireworks" on all shipping cases and by imprinting on the article or retail container "D.O.T. Class C common fireworks," such imprint to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities and the general public. (as added by Ord. #722, June 1997)

7-508. Retail sale of permissible items - time limitations - exceptions. Permissible articles of fireworks may be sold at retail in the city of Winchester and used within the City of Winchester from June 20th through July 5th, and December 10th through January 2 of each year only, except that "fireworks" does not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty five one-hundredths (25/100) grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less than twenty-five one-hundredths (25/100) grains of explosive compounds, cone, bottle, tube, and other type serpentine pop-off novelties, model rockets, wire sparklers, containing not over one hundred (100) grams of composition per item (sparklers containing chlorate or perchlorate salts may not exceed five (5) grams of composition per item), emergency flares, matches, trick matches and cigarette loads, the sale and use of which shall be permitted at all times. (as added by Ord. #722, June 1997)

7-509. Public displays - permits - regulation. Nothing in this chapter shall be construed as applying to the shipping, sale, possession, and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshall. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the City of Winchester shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulation or the United States Department of Transportation as "Class B special fireworks" and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes. Public displays shall be performed only under competent supervision, and after the persons or organizations making such displays shall have received written approval from the Winchester Fire Department, and applied for and received a permit for such displays issued by the state fire marshall. Applicants for permits for such public displays shall be made in writing and shall show that the proposed display is to be so located and supervised that it is not hazardous to property and that it shall not endanger human lives. Possession of special fireworks for re-sale to holders of a permit for public fireworks display shall be confined to holders of a distributors permit only. (as added by Ord. #722, June 1997)

7-510. Regulations governing storing, locating or display of fireworks.

(1) Placing, storing, locating or displaying fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within ten feet (10') of where the fireworks are offered for sale is hereby declared unlawful and prohibited. At all places where fireworks are stored or sold, there must be posted signs with the words "fireworks -- no smoking" in letters not less than four inches (4") high. No fireworks shall be sold at retail at any location where paints, oils or varnishes are for sale or use, unless such paints, oils or varnishes are kept in their original consumer containers, nor where resin, turpentine, gasoline or any other flammable substance is stored or sold, if the storage creates an undue hazard to any person or property.

(2) All firework devices that are readily accessible to handling by consumers or purchasers must have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash or other ignition source. Safety-type thread-wrapped and coated fuses shall be exempt from this provision. (as added by Ord. #722, June 1997)

7-511. Unlawful acts in the sale, handling or private use of fireworks.

(1) It is unlawful to:

(a) offer for retail sale or to sell any fireworks to children under the age of ten (10) years or to any intoxicated or irresponsible person;

(b) explode or ignite fireworks within six hundred feet (600') of any church, hospital, asylum, public school or within two hundred feet (200') of where fireworks are stored, sold or offered for sale;

(c) ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of people.

(2) All items of fireworks which exceed the limits of D.O.T. Class C common fireworks as to explosive composition, such items being commonly referred to as "illegal ground salutes" designed to produce an audible effect, are expressly prohibited from shipment into, manufacture, possession, sale or use within the City of Winchester for any purpose. This subsection shall not effect display fireworks authorized by this chapter. (as added by Ord. #722, June 1997)

7-512. Seizure and destruction of fireworks. (1) The Winchester Fire Department shall seize as contraband any fireworks other than "Class C common fireworks" or "special fireworks" for public displays which are sold, displayed, used or possessed in violation of this chapter.

(2) Before any seized fireworks may be destroyed:

(a) If the owner of such seized fireworks is known, the Winchester Fire Department shall give notice by registered mail or personal service to such owner, of the fire department's intention to destroy such seized materials. Such notice shall inform the owner of the

owner's right to a hearing. Upon the request of the owner, the fire department shall conduct an appropriate contested case hearing concerning such destruction of fireworks in accordance with the Uniform Administrative Procedures Act, compiled in T.C.A. Title 4, Chapter 5.

(b) If the identity of the owner of any seized fireworks is not known to the Winchester Fire Department, the fire department personnel shall cause to be published, in a newspaper of general circulation in the county wherein the seizure was made, notice of such seizure, and of the fire department's intention to destroy such fireworks. The notice shall be published once and if no person claims ownership of the fireworks within ten (10) days of the date of the publication, the Winchester Fire Department may proceed to destroy the fireworks. If the owner does claim the fireworks within the time specified, a hearing as set out in this subsection shall be held. (as added by Ord. #722, June 1997)

7-513. Penalty for violation. Any individual, firm, partnership or corporation that violates any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not more than \$50.00. In addition, the Winchester Fire Department may refuse to issue another permit to the holder of a permit so convicted for a period not to exceed three (3) years.

7-514. Exceptions to application. (1) Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, or the State of Tennessee or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes, providing the purchaser first secures a written permit to purchase and use fireworks for agricultural purposes only from the state fire marshall, and after approval of the county agricultural agent of the county in which the fireworks are to be used and the fireworks must at all times be kept in possession of the farmer to whom the permit is issued. Such permits and fireworks shall not be transferable. Items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the City of Winchester.

(2) Further exempt are fireworks and/or fireworks displays that might be other than the use of Class C common fireworks when used solely for a public exhibition of such items either when displayed or discharged.

(3) Such exhibitors of a public fireworks display for special events shall have prior approval by the Winchester City Council after application has been made and approved by the Winchester Fire Department.

(4) Items used in a special event fireworks display shall conform to, and be limited to, those guidelines and specifications as defined by the Winchester Fire Department such guidelines and specifications may be altered



or be designed specifically for each special event at the discretion of the Winchester Fire Department. (as added by Ord. #722, June 1997)

TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. State law incorporated by reference; alcoholic beverages subject to regulation.
- 8-102. Manufacture prohibited.
- 8-103. Wholesale business prohibited.
- 8-104. Certificate of moral character - application.
- 8-105. Certificate of moral character - content.
- 8-106. Location and size restrictions on retail business.
- 8-107. [Deleted.]
- 8-108. Limitation on number of retailers.
- 8-109. Inspection fee.
- 8-110. Violations.

8-101. State law incorporated by reference; alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this municipality except as provided by Tennessee Code Annotated, title 57, as amended, or as hereafter amended, and by the rules and regulations promulgated thereunder, all of which are incorporated by reference as if fully set out herein, and as provided by this chapter. (1983 Code, § 2-101)

8-102. Manufacture prohibited. The manufacture of alcoholic beverage is prohibited within the corporate limits. (1983 Code, § 2-102)

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<sup>1</sup>Municipal code references

Driving under the influence: § 15-104.

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

State law reference

Tennessee Code Annotated, title 57.

8-103. Wholesale business prohibited. No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits. (1983 Code, § 2-103)

8-104. Certificate of moral character - application.<sup>1</sup> Any person, firm, or corporation desiring to sell alcoholic beverages to patrons or customers, in sealed packages only, and not for consumption on the premises, shall make application to the city clerk for a certificate of moral character, which application shall be in writing on forms prescribed and furnished by the city clerk.

A nonrefundable two hundred fifty dollar (\$250.00) investigation fee shall accompany each application for a certificate of good moral character whether the application relates to the acquisition of an initial retail business license or to its renewal.

A majority of the city council may issue a certificate of moral character. No certificate of moral character will be granted for the operation of a retail store for sale of alcoholic beverages within two hundred (200') feet of a church, school, or place of public gathering. A certificate of moral character issued under this chapter is not valid except at the premises recited in the application.

No certificate of moral character shall be granted for the operation of a retail store for the sale of alcoholic beverages where, in the opinion of the council, expressed by a majority thereof, the carrying on of such a business at the premises covered by the application for a certificate or moral character would be in too close proximity of a church, school, or public institution, or otherwise inimical to the public interest. A certificate of moral character issued under this chapter shall not be valid except at the premises recited in the application. (1983 Code, § 2-104, as amended by Ord. #872, Feb. 2007)

8-105. Certificate of moral character - content. The certificate of moral character shall state: (1) That the applicant or applicants who are to be in actual charge of said business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application; and further, that in the official's opinion the applicant will not violate any of the provisions of this chapter.

(2) That the applicant or applicants have secured a location for said business which complies with all restrictions of any local law, ordinance or resolution, duly adopted by the local authorities as to location within the city or county, and that the applicant or applicants meet all residency requirements.

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<sup>1</sup>State law reference

Tennessee Code Annotated § 57-3-208.

(3) That the applicant or applicants have secured a location for said business which complies with all relevant restrictions of any local law, ordinance, or resolution adopted by the local authorities within the City of Winchester or Franklin County, Tennessee. (1983 Code, § 2-105, as amended by Ord. #872, Feb. 2007)

8-106. Location and size restrictions on retail businesses. No retail store shall be located except on the ground floor and it shall have one (1) main entrance opening on a public street and such place of business shall have no other entrance for use by the public except as hereafter provided. When a retail store is located on the corner of two (2) public streets such retail store may maintain a door opening on each of the public streets. Provided, however, that any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public, and provided, further, that every retail store shall be provided with whatever entrances and exits may be required by existing or future municipal ordinances. (1983 Code, § 2-106)

8-107. [Deleted.] (1983 Code, § 2-107, as deleted by Ord. #872, Feb. 2007)

8-108. Limitation on number of retailers.<sup>1</sup> No more than three (3) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (1983 Code, § 2-108)

8-109. Inspection fee. The City of Winchester hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (1983 Code, § 2-109)

8-110. Violations. Any violation of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine under the general penalty clause of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (1983 Code, § 2-110)

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<sup>1</sup>State law reference

Tennessee Code Annotated § 57-3-208(c).

CHAPTER 2

BEER<sup>1</sup>

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Limitation on number of permits.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-213. Revocation or suspension of beer permits.
- 8-214. Civil penalty in lieu of revocation or suspension.
- 8-215. Loss of clerk's certification for sale to minor.
- 8-216. Violations.
- 8-217--8-226. [Deleted.]

8-201 Beer board established. There is hereby created a board of five (5) members to be known as the beverage board of the City of Winchester, Tennessee. The five (5) members shall be appointed by the mayor and shall be approved by the Winchester City Council. Terms of office for members of the beer board are three (3) years in duration. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without compensation. (Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

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<sup>1</sup>Municipal code references

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

Tax provisions: title 5.

State law reference

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

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The beer board may hold regular or special called meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #612, Oct. 1990, as amended by Ord. #616, April 1991, and replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

8-203. Record of beer board proceedings to be kept. A member of the beer board 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. (Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

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. (Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

8-205. Powers and duties of the beer board.<sup>1</sup> The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight; provided however, that no more that forty-nine percent (49%) of the overall alcoholic content of such

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-5-106.

beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol. (Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

8-207. Permit required for engaging in beer business.<sup>1</sup> (1) It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Winchester. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

(2) Each applicant shall certify in its application for a beer license that all persons selling beer for on and off premises consumption shall be certified through the TIPS Program, and that all future sales employees will continue to be certified. (Ord. #612, Oct. 1990, as amended by Ord. #616, April 1991, replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008, and amended by Ord. #937, Jan. 2012)

8-208. Privilege tax.<sup>2</sup> There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the City of Winchester, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and

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<sup>1</sup>State law reference

Tennessee Code Annotated, 57-5-103.

<sup>2</sup>State law reference

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

manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit.<sup>1</sup> (Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

8-210. Limitation on number of permits. The number of licenses for the sale of beer shall not be limited. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of the ordinance comprising this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased.(Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

8-211. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within two hundred (200) feet of any school, residence, church or other place of public gathering. Such distance requirement shall not apply to any licensed businesses located in the

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten years. Under Tennessee Code Annotated, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under Tennessee Code Annotated, § 16-18-302, city courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City courts are thus prohibited from enforcing ordinances making violations of Tennessee Code Annotated, § 57-5-301(a) a local offense.



downtown district as depicted on the attached map as Exhibit A.<sup>1</sup> The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six-month period. (Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, amended by Ord. #767, Aug. 2000, replaced by Ord. #890, March 2008, and amended by Ord. #923, Oct. 2010)

8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

- (1) Make any sale of beer for on premises or off premises consumption to any person under the age of twenty-one (21) years.
- (2) Employ any minor under 18 years of age in the sale, storage, distribution or manufacture of beer.
- (3) Make or allow any sale of beer between the hours of 3:00 A.M. and 6:00 A.M. on Monday through Saturday and on Sunday between the hours of 3:00 A.M. and 12:00 noon.
- (4) Allow any person under twenty-one (21) years of age to loiter in or about place of business.
- (5) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (6) Allow intoxicated or drunk persons to loiter about his premises.
- (7) 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.
- (8) Allow pool or billiard playing in the same room where beer is sold and/or consumed.
- (9) Fail to provide and maintain separate sanitary toilet facilities for men and women.
- (10) Prior to making a sale of beer for off premises consumption or for on premises consumption, the adult consumer must present to permit holder or any employee thereof a valid, government issued document, such as driver's

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<sup>1</sup>Exhibit A is available in the office of the city recorder.

license, or other form of identification deemed acceptable to the permit holder, which includes the photograph and birth date of the adult consumer attempting to make such purchase of beer. Persons exempt under state law from the requirement of having a photo identification shall present identification that is acceptable to the permit holder. The permit holder or employee shall make a determination from the information presented whether the purchaser is an adult. In addition to the prohibition of making a sale to a minor, no sale of beer for off the premises consumption shall be made to a person who does not present such a document or other form of identification to the permit holder or any employee thereof. Responsible vendors must post signs on the vendor's premises informing customers of the vendor's policy against selling beer to underage persons. Such signs shall be not less than 8-1/2" x 11" and contain the following language:

STATE LAW REQUIRES IDENTIFICATION FOR THE SALE OF BEER  
(Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

8-213. Revocation or suspension 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 suspend until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve-month period. The revocation

shall be for three (3) years.(Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

8-214. Civil penalty in lieu of revocation or suspension. (1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

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

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

8-215. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

8-216. Violations. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

(Ord. #612, Oct. 1990, as replaced by Ord. #660, § 1, Oct. 1993, and Ord. #890, March 2008)

8-217. [Deleted.] (Ord. #612, Oct. 1990, as replaced by Ord. #660 § 1, Oct. 1993, and deleted by Ord. #890, March 2008)

8-218. [Deleted.] (Ord. #612, Oct. 1990, as replaced by Ord. #660 § 1, Oct. 1993, and deleted by Ord. #890, March 2008)

8-219. [Deleted.] (Ord. #612, Oct. 1990, as replaced by Ord. #660 § 1, Oct. 1993, and deleted by Ord. #890, March 2008)

8-220. [Deleted.] (Ord. #612, Oct. 1990, as replaced by Ord. #660 § 1, Oct. 1993, amended by Ord. #767, Aug. 2000, and deleted by Ord. #890, March 2008)

8-221. [Deleted.] (Ord. #612, Oct. 1990, as replaced by Ord. #660 § 1, Oct. 1993, and deleted by Ord. #890, March 2008)

8-223. [Deleted.] (Ord. #612, Oct. 1990, as replaced by Ord. #660 § 1, Oct. 1993, and deleted by Ord. #890, March 2008)

8-224. [Deleted.] (Ord. #546, March 1985, as amended by Ord. #547, May 1985, replaced by Ord. #660, § 1, Oct. 1993, and deleted by Ord. #890, March 2008)

8-225. [Deleted.] (Ord. #535, Jan. 1984, as replaced by Ord. #660 § 1, Oct. 1993, and deleted by Ord. #890, March 2008)

8-226. [Deleted.] (as added by Ord. #660 § 1, Oct. 1993, and deleted by Ord. #890, March 2008)

TITLE 9

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

CHAPTER

1. PEDDLERS.
2. SUBSCRIPTION AND CHARITABLE SOLICITORS.
3. VEHICLES FOR HIRE.
4. FAIR HOUSING.
5. POOL ROOMS.
6. MISCELLANEOUS.
7. CABLE TELEVISION.
8. YARD/GARAGE SALES.

CHAPTER 1

PEDDLERS<sup>2</sup>

SECTION

- 9-101. "Peddlers" defined.
- 9-102. Permit required.
- 9-103. Application for permit - contents; accompanying documents.
- 9-104. Investigation of applicant for permit.
- 9-105. Issuance of permit; record to be kept.
- 9-106. Exhibit of permit required.
- 9-107. Transfer of permit prohibited.
- 9-108. Loud noises to attract attention prohibited.
- 9-109. Conduct of business in public ways restricted.
- 9-110. Revocation of permit.
- 9-111. Appeal from denial or revocation of permit.
- 9-112. Expiration, renewal of permits and licenses.

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<sup>1</sup>Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

<sup>2</sup>Municipal code references

Privilege taxes; title 5.

Trespass by peddlers, etc.: § 11-801.

9-101. "Peddlers" defined. The word "peddler" as used herein shall include any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place, to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance, and, further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this chapter shall be deemed a peddler subject to the provisions of this chapter. The word "peddler" shall include the words "hawker" and "huckster," but shall not be deemed to include "charity solicitors" and "subscription solicitors" who are regulated herein.<sup>1</sup> (1983 Code, § 5-101)

9-102. Permit required. It shall be unlawful for any person to engage in the business of peddler as defined in section 9-101 of this chapter within the city without first obtaining a peddler's permit in accordance with the provisions of this chapter. (1983 Code, § 5-102)

9-103. Application for permit - contents; accompanying documents. Each applicant for a permit under this article must file with the city clerk a sworn application, in writing on a form to be furnished by the city clerk, which shall give the following information:

- (1) Name, description. Name and description of the applicant.
- (2) Address. Address (legal and local).
- (3) Description of business. A brief description of the nature of the business and the goods to be sold and in the case of products of farm or orchard, whether produced or grown by the applicant.
- (4) Name of employer, if any. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- (5) Duration of business. The length of time for which the right to do business is desired.
- (6) Description of vehicle. If a vehicle is to be used, a description of the same, together with its license number and other means of identification.
- (7) Photograph. A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be two inches (2") by two inches (2") showing the head and shoulders of the applicant in a clear and distinguishing manner.

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<sup>1</sup>Municipal code reference

Subscription and charitable solicitors: title 9, chapter 2.

(8) Fingerprints, references. The fingerprints of the applicant and the names of at least two (2) reliable property owners of the County of Franklin, Tennessee, who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.

(9) Previous convictions. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, and if so the nature of the offense and the punishment or penalty assessed therefor.

(10) Medical certificate. Applicant shall file with his application a statement by a reputable physician of the city, dated not more than ten (10) days prior to submission of the application, certifying the applicant to be free of infectious, contagious or communicable disease.

(11) Fee. At the time of filing the application, a fee of two dollars (\$2.00) shall be paid to the city clerk to cover the cost of investigation. (1983 Code, § 5-103)

9-104. Investigation of applicant for permit. (1) Conduct of investigation. Upon receipt of an application for a peddler's permit, the original shall be referred to the chief of police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.

(2) Disapproval of application. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on such application his disapproval and his reasons for the same, and return the application to the city clerk, who shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) Approval of application. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse on the application his approval and return it to the city clerk. (1983 Code, § 5-104)

9-105. Issuance of permit; record to be kept. When the chief of police has approved an application for a peddler's permit, the city clerk shall, upon payment of any lawful privilege tax due the city, issue to the applicant a peddler's permit. The permit shall bear the signature of the city clerk and shall show the name, address and photograph of the permittee; the kind of goods to be sold thereunder; the amount of privilege tax, if any, paid; the date of issuance; and the expiration date of the permit. The city clerk shall keep a permanent record of all permits issued. (1983 Code, § 5-105)

9-106. Exhibit of permit required. Peddlers are required to exhibit their permits at the request of any citizen. (1983 Code, § 5-106)

9-107. Transfer of permit prohibited. No peddler's permit or license issued under the provisions of this chapter shall be used at any time by any person other than the one to whom it was issued. (1983 Code, § 5-107)

9-108. Loud noises to attract attention prohibited. No peddler, nor any person in his behalf, shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which the peddler proposed to sell. (1983 Code, § 5-108)

9-109. Conduct of business in public ways restricted. No peddler shall have any exclusive right to any location in the public streets, nor shall any peddler be permitted a stationary location, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. 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 or the public impeded or inconvenienced. (1983 Code, § 5-109)

9-110. Revocation of permit. (1) Grounds. Peddler's permits may be revoked by the city clerk after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation, or false statement contained in the application for the permit.
- (b) Fraud, misrepresentation or false statement made in the course of carrying on his business as peddler.
- (c) Any violation of this chapter.
- (d) Conviction of any crime or misdemeanor involving moral turpitude.
- (e) Conducting the business of peddling in any 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 hearing. Notice of the hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the peddler at his last known address at least five (5) days prior to the date set for hearing. (1983 Code, § 5-110)

9-111. Appeal from denial or revocation of permit. Any person aggrieved by the action of the chief of police or the city clerk in denying or revoking a peddler's permit shall have the right of appeal to the city council. Such appeal shall be taken by filing with the council, within fourteen (14) days after notice



of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The council shall set a time and place for a hearing on such appeal and notice of such hearing shall be mailed, postage prepaid, to the appellant's last known address at least five (5) days prior to the date for hearing. The decision and order of the council on such appeal shall be final and conclusive. (1983 Code, § 5-111)

9-112. Expiration, renewal of permits and licenses. All permits and licenses issued under the provisions of this chapter shall expire on the 31st of December in the year for which issued, but may be renewed by the city clerk at any time within thirty (30) days before or after such expiration date without a new investigation. When applying for a renewal, the peddler shall be required to fill out only such portions of the application blanks as will be necessary to reflect changed conditions since the filing of his original application. (1983 Code, § 5-112)

## CHAPTER 2

SUBSCRIPTION AND CHARITABLE SOLICITORS<sup>1</sup>

## SECTION

- 9-201. License required.
- 9-202. Application for license.
- 9-203. Approval of application for license.
- 9-204. Issuance of license.
- 9-205. Possession, exhibition of license.
- 9-206. Transfer of license; use in violation of restrictions prohibited.
- 9-207. Revocation of license.
- 9-208. Solicitors to be bonded.
- 9-209. Charitable solicitors - permit required; exceptions.
- 9-210. Application for charitable solicitation permit.
- 9-211. Screening committee for charitable solicitation applications.
- 9-212. Term, renewal of charitable solicitation permits.
- 9-213. Charitable solicitations prohibited on certain days; exception.
- 9-214. Solicitors to wear insignia.

9-201. License required. No person shall engage in soliciting subscriptions for books, magazines or other literature within the city without first obtaining a subscription solicitor's license from the city clerk. Such license shall be required whether the solicitations are made by canvassing from house to house, in business places, or by telephone and irrespective of whether a payment, either in part or in whole, is necessary or required prior to delivery of the literature sold. (1983 Code, § 5-201)

9-202. Application for license. (1) Contents, accompanying documents. Application for the license required in section 9-201 shall be made to the city clerk upon such blank form as he shall provide. On such application, the applicant shall set forth the following:

- (a) Name.
- (b) Residence.
- (c) Business address.
- (d) Age.
- (e) Occupation.
- (f) The name and business address of the person by whom employed.
- (g) The length of time applicant has been with such employer.

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<sup>1</sup>Municipal code reference  
Trespass by peddlers, etc.: § 11-801.

(h) Place of residence and nature of employment of applicant during the previous year.

(i) The nature, character or description of the books, magazines, or literature for which subscriptions are to be solicited.

(j) A personal description of the applicant.

(k) The length of time for which the license is desired, provided the same shall not exceed one (1) year.

(l) The fingerprints of the applicant.

(m) An affidavit of the applicant as to the truth of the matters set forth in the application.

(n) Such other information as may reasonably be required by the city clerk.

(2) Supporting evidence. The application shall be accompanied by such credentials or evidence of good moral character and identity of the applicant as may be required by the city clerk. (1983 Code, § 5-202)

9-203. Approval of application for license. If the city clerk shall determine after a reasonable investigation that the applicant has a good moral character and proposes to engage in a lawful and legal enterprise, he shall approve such application, retaining a copy of the same, and forwarding another to the chief of police. (1983 Code, § 5-203)

9-204. Issuance of license. The city clerk shall issue the license required by this chapter to each applicant whose application is approved and who has filed the bond required by section 9-208. (1983 Code, § 5-204)

9-205. Possession, exhibition of license. The license required by the provisions of this chapter shall be carried at all times by the applicant to whom issued when he is soliciting or canvassing and shall be exhibited upon request of any police officer or person solicited or canvassed. (1983 Code, § 5-205)

9-206. Transfer of license; use in violation of restrictions prohibited. Each license issued pursuant to the provisions of this chapter shall have stamped upon it in red letters "Not Transferable" and "Not good on the streets, sidewalks or public places, or in the vestibule of any store or place of business in this city." No license shall be transferred or used in violation of the restrictions or prohibitions so stamped on it. (1983 Code, § 5-206)

9-207. Revocation of license. Any license issued under the provisions of this chapter may be revoked by the city clerk for the violation by the holder thereof of any provision of this code or of state or federal law. Such license may also be revoked for misrepresentations contained in the application therefor, for any other misrepresentation or deceit, or if the licensee ceases to possess the character and other qualities required for the issuance of the license. (1983 Code, § 5-207)

9-208. Solicitors to be bonded. Each applicant for a subscription solicitor's license shall file and maintain with the city clerk a bond in the sum of one hundred dollars (\$100.00). The bond shall be made to the city by a bonding company authorized to do business within the state and shall inure to the benefit of any person damaged by fraudulent representations on the part of the bonded solicitor. (1983 Code, § 5-208)

9-209. Charitable solicitors - permit required; exceptions. It shall be unlawful for any person to solicit or receive any gift or gifts of money, goods, wares, merchandise or other thing of value, or to offer for sale or to solicit the sale of tickets, or other thing entitling one to admission to any entertainment, benefit, picnic, game, or other function, or for a patriotic, charitable or other public cause or purpose, or to sell, offer for sale or distribute to the public, banners, badges or tags to be worn or displayed by the persons buying or receiving the same, without first securing a permit therefor from the city council. However, nothing contained herein shall be deemed to be applicable to persons acting under direct authority from any of the following: U.S. Government, State of Tennessee, Franklin County, City of Winchester, or to solicitations by organizations from their own members. (1983 Code, § 5-209)

9-210. Application for charitable solicitation permit. Any person or organization desiring to secure a permit as described in section 9-209 shall make written application therefor to the city at least thirty (30) days prior to the date such solicitation is contemplated, and said application shall include such information as may be required by the application form supplied by the city clerk. (1983 Code, § 5-210)

9-211. Screening committee for charitable solicitation applications. There is hereby established a screening committee, consisting of three members of the city council, to be appointed by the mayor, who shall investigate applications in accordance with the provisions of this chapter, and make recommendations to the city council. (1983 Code, § 5-211)

9-212. Term, renewal of charitable solicitation permit. No permit as required by section 9-209 shall be valid for a longer period than thirty (30) days after the issuance thereof; provided, however, that renewal of a permit may be granted by the city, upon application. Such application shall be filed at least ten (10) days prior to the expiration date of the permit. (1983 Code, § 5-212)

9-213. Charitable solicitations prohibited on certain days; exception. Except by special dispensation, no solicitation regulated by section 9-209 shall be permitted during the first five (5) days of any month. (1983 Code, § 5-213)

9-214. Solicitors to wear insignia. It shall be unlawful for any person to act as a solicitor or to assist in soliciting without displaying and keeping in a

conspicuous place on his clothing during such soliciting, the insignia of authority which shall have been approved by the city. (1983 Code, § 5-214)

## CHAPTER 3

VEHICLES FOR HIRE<sup>1</sup>

## SECTION

9-301. Definitions.

9-302. Bond or insurance required.

9-303. Parking regulations.

9-304. Buses not to unload or load passengers on streets or public square.

9-301. Definitions. (1) "Taxicabs" as used in this chapter, shall be held to include all motor vehicles operated as public carriers of passengers for hire, which are licensed as taxicabs, except the following: Auto buses having a seating capacity of more than twenty (20) passengers, exclusive of the driver's seat; common carriers; passenger automobiles used for specific purposes and not generally termed taxicab operations, such as service for funerals and weddings.

(2) "Owner" when used in this chapter, shall be construed to mean any person, firm or corporation who has the control, direction, operation, maintenance and the benefit of the collection of revenue derived from the operation of taxicabs on or over the streets or public ways of the city, whether as owner, licensee, bailee, or otherwise, except as "driver" as hereinafter defined.

(3) "Vehicle for hire" shall include any vehicle which carries passengers for a fee, and shall include buses, taxicabs, and leased vehicles.

(4) "Driver" shall be held to include every person in actual charge of the operation of a taxicab, as herein defined, whether as owner, or agent, servant or employee of the "owner" as herein defined. (1983 Code, § 5-301)

9-302. Bond or insurance required. It shall be unlawful for any person to operate any taxicabs or vehicles for hire on the streets of the city until the owner of such taxicabs or vehicles for hire has filed with the city clerk for each and every taxicab or automobile for hire so operated or employed, a bond in the sum of fifty thousand dollars (\$50,000.00) with good and solvent surety, indemnifying any person and agreeing to pay any final judgment rendered against the owner or owners of such taxicab or vehicle for hire on account of injuries to person or persons or damage to property. Such owner may in lieu of such bond file with the city clerk a liability insurance policy in some public liability insurance company authorized to do business in the State of Tennessee covering each and every taxicab or vehicle for hire. Said policy shall be issued to the person owning and operating such taxicabs or vehicles for hire and shall provide for the payment of any final judgment not to exceed the sum of one hundred thirty thousand dollars (\$130,000.00) for injury to one person and not

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<sup>1</sup>Charter reference

Corporate powers: art. I, § 1.04(p)

to exceed three hundred fifty thousand dollars (\$350,000.00) for injury to more than one person in any one accident, and of fifty thousand dollars (\$50,000.00) property damage, that may be rendered against such person, owning or operating such taxicabs or vehicles for hire, for injury to person or persons or damage to property, who may recover such final judgment. (1983 Code, § 5-302)

9-303. Parking regulations.<sup>1</sup> It shall be unlawful for any owner or driver of any taxicab to park or bring his taxicab to a stop on any street, avenue, or alley in the corporate limits for a longer period of time than three (3) minutes and then only for the purpose of loading or unloading passengers. (1983 Code, § 5-303)

9-304. Buses not to unload or load passengers on streets or public square.<sup>2</sup> It shall be unlawful for any motor carrier of passengers for hire, commonly known as buses, holding Certificates of Convenience and Necessity from the Railroad and Public Utilities Commission of the State of Tennessee, to stop on any street on the Public Square of Winchester, Tennessee, for the purpose of loading and unloading passengers or for any other purposes except to obey traffic regulations. (1983 Code, § 5-304)

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<sup>1</sup>Municipal code reference  
Parking: title 15, chapter 6.

<sup>2</sup>Municipal code reference  
Loading and unloading zones: § 15-605.

## CHAPTER 4

FAIR HOUSING

## SECTION

- 9-401. Definitions.
- 9-402. Acts prohibited.
- 9-403. Exceptions.
- 9-404. Discrimination by real estate organizations prohibited.
- 9-405. Discrimination complaint process.
- 9-406. Penalty.
- 9-407. Remedy not exclusive.

9-401. Definitions. Whenever used in this chapter, the following words and terms shall have the following meanings unless the context necessarily requires otherwise:

(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 of any such building.

(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, trust, 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 not owned by the occupant. (1983 Code, § 5-401)

9-402. Acts prohibited. Subject to the exceptions hereinafter set out it shall be unlawful for any person to do any of the following acts:

(1) To refuse to sell or rent after the making of a bona fide offer to do so 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, national origin.

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

(4) To represent to any person because of race, color, religion, 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, religions or national origin. (1983 Code, § 5-402)

9-403. Exceptions. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental or occupance of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or from giving preferences to such persons, unless membership in such religion is restricted on account of race, color, or national origin. (1983 Code, § 5-403)

9-404. Discrimination by real estate organizations prohibited. 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, national origin. (1983 Code, § 5-404)

9-405. Discrimination complaint process. Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured by such an act, may file a complaint with the chairman of said sub-committee. A complaint shall be filed within 180 days after the alleged unlawful act occurred. Complaints shall be in writing and shall contain such information and be in such form as required by the mayor and city council. Upon receipt of a complaint the mayor and city council shall promptly investigate it and shall complete its investigation within fifteen (15) days. If the mayor and city council find reasonable cause to believe that a violation of this chapter has occurred, or if a person charged with violation of this chapter refuses to furnish information to said mayor and city council, the mayor and city council may request the city attorney to prosecute an action in the city court against the person charged in the complaint. Such request shall be in writing.

Upon receiving such written request and with the assistance of the aggrieved person and said mayor and councilmen within fifteen (15) days after receiving such request, the city attorney shall be prepared to prosecute an action in the city court, provided a warrant is sworn out by the aggrieved person and served upon the person or persons charged with the offense. (1983 Code, § 5-405)

9-406. Penalty. Any person violating any provision of this chapter shall be guilty of an offense and upon conviction shall be punished under the general

penalty provision of this code. Each day such violation shall continue shall constitute a separate offense. (1983 Code, § 5-406)

9-407. Remedy not exclusive. Nothing in this chapter requires any person claiming to have been injured by an act made unlawful by this chapter to exhaust the remedies provided herein, nor prevents any such person from seeking relief at any time under the Federal Civil Rights Acts or other applicable legal provisions. (1983 Code, § 5-407)

## CHAPTER 5

POOL ROOMS

## SECTION

9-501. Minors to be kept out; exception.

9-501. 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, or for 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 parents of such minor, if living; if the parents are dead, then the 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. (1983 Code, § 5-501)

## CHAPTER 6

MISCELLANEOUS

## SECTION

9-601. "Going out of business" sales regulated.

9-602. Inspection fee for carnivals.

9-601. "Going out of business" sales regulated. It shall be unlawful for any person, partnership, firm or corporation, to conduct a "going out of business" sale within the City of Winchester without first having obtained a special permit for the express purpose of conducting such a sale. Prior to conducting such a sale or advertising the same, said person, partnership, firm or corporation shall be required to surrender its regular business license and obtain a special permit to conduct the sale. The application for a permit shall be accompanied by an inventory of the stock of goods and merchandise on hand to be sold at such sale and shall specify the name and address of the applicant and any agent, person, partnership, firm or corporation who will be substantially involved in the "going out of business" sale. The application shall designate the place where the sale will be conducted and the length of time during which the proposed sale is to continue, not to exceed 120 days from the issuance of said special permit. Said permit shall automatically become void 120 days after its issuance.

Any significant addition to inventory during a "going out of business" sale shall be a violation of this chapter.

No person, partnership, firm or corporation shall be issued more than one permit for a "going out of business" sale within a period of 24 months. (1983 Code, § 5-601)

9-602. Inspection fee for carnivals. An inspection fee of \$500.00 shall be levied on any and all carnivals locating or operating within the corporate limits of the City of Winchester, Tennessee. Said fee shall be payable to the city clerk before the carnival is located and set-up within the corporate limits. (1983 Code, § 5-602)

## CHAPTER 7

CABLE TELEVISION

## SECTION

9-701. To be furnished under and governed by franchise.

9-701. To be furnished under and governed by franchise.<sup>1</sup> Cable television services shall be furnished to the City of Winchester and governed under franchise granted to various parties by the city council. The rights, powers, duties and obligations of the City of Winchester are clearly stated in the franchise agreement executed by, and which shall be binding upon all the parties concerned. (1983 Code, § 13-201)

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<sup>1</sup>For complete details relating to the Cable television franchise agreement see Ord. #320, Oct. 1964, and Ord. #329 dated December 14, 1965 in the office of the city recorder.

## CHAPTER 8

### YARD/GARAGE SALES

#### SECTION

- 9-801. Definitions.
- 9-802. Property permitted to be sold.
- 9-803. Permit required.
- 9-804. Permit procedure.
- 9-805. Permit conditions.
- 9-806. Hours of operation.
- 9-807. Exceptions.
- 9-808. Display of sale property.
- 9-809. Display of permit.
- 9-810. Advertising.
- 9-811. Persons exempted from chapter.
- 9-812. Violations and penalty.

9-801. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

(2) "Yard/garage sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. (as added by Ord. #833, Jan. 2005)

9-802. Property permitted to be sold. It shall be unlawful for any for person sell or offer for sale , under authority granted by this chapter, property other than personal property. (as added by Ord. #833, Jan. 2005)

9-803. Permit required. No yard/garage sale shall be conducted unless and until the individuals desiring to conduct such sale obtain a permit therefore from the building/codes enforcement department. Members of more than one (1) residence may join in obtaining a permit for yard/garage sale to be conducted at

the residence of one (1) of them. Permits may be obtained for any nonresidential location. (as added by Ord. #833, Jan. 2005)

9-804. Permit procedure. (1) Application. The applicant or applicants for a yard/garage sale permit shall file a written application with the building/codes enforcement department at least three (3) days in advance of the proposed sale setting forth the following information:

- (a) Full name and address of applicant or applicants;
- (b) The location at which the proposed yard/garage sale is to be held;
- (c) The date or dates upon which the sale will be held;
- (d) The date or dates of any other yard/garage sales by the same applicant or applicants within the current calendar year;
- (e) A statement that the property to be sold was owned by the applicant as his own personal property and was neither acquired nor consigned for the purpose of resale;
- (f) A statement that the applicant will fully comply with this and all other applicable ordinances and laws.

(2) Permit fee. An administrative processing fee of five dollars (\$5.00) for the issuance of such permit shall accompany the application.

(3) Issuance of permit. Upon the applicant complying with the terms of this chapter, the building/codes enforcement department shall issue a permit. (as added by Ord. #833, Jan. 2005)

9-805. Permit conditions. The permit shall set forth and restrict the time and location of such yard/garage sale. No more than two (2) such permits may be issued to one (1) residential location, residence and/or family household during any calendar year. If members of more than one (1) residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences. No more than two (2) permits may be issued for any nonresidential location during any calendar year. (as added by Ord. #833, Jan. 2005)

9-806. Hours of operation. Sales shall be limited in time to no more than 7:00 A.M. to 6:00 P.M. on three (3) consecutive days. (as added by Ord. #833, Jan. 2005)

9-807. Exceptions. (1) If sale not held because of inclement weather. If a yard/garage sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the building/codes department shall issue another permit to the applicant for a yard/garage sale to be conducted at the same location within thirty (30) days from the date when the first sale was to be held. No additional permit fee is required.

(2) Third sale permitted. A third yard/garage sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the building/codes enforcement department. (as added by Ord. #833, Jan. 2005)

9-808. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a yard/garage sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. (as added by Ord. #833, Jan. 2005)

9-809. Display of permit. Any permit in possession of the holder or holders of a yard/garage shall be posted on the premises in a conspicuous place so as to be seen by the public, or any city official. (as added by Ord. #833, Jan. 2005)

9-810. Advertising. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending yard/garage sale:

(a) Two signs permitted. Two (2) signs of not more than four (4) square feet shall be permitted to be displayed on the property of the residence or nonresidential site where the yard/garage sale is being conducted.

(b) Directional signs. Two (2) signs of not more than two (2) square feet each are permitted, provided that the premises on which the yard/garage sale is conducted is not on a major thoroughfare, and written permission to erect such signs is received from the property owners on whose property such signs are to be placed.

(2) Time limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the day such sale is to commence.

(3) Removal of signs. Signs must be removed at the close of the yard/garage sale activities. (as added by Ord. #833, Jan. 2005)

9-811. Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

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

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

(3) Any sale, conducted by any merchant or mercantile or other business establishment on a regular, day-to day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the city, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be



conducted from properly zoned premises, and not otherwise prohibited by other ordinances. (as added by Ord. #833, Jan. 2005)

9-812. Violations and penalty. Any person found guilty of violating the terms of this chapter shall be subject to a penalty of up to twenty-five dollars (\$25.00) for each offense, up to two (2) offenses. Each subsequent offense shall be subject ,to a penalty of two hundred and fifty dollars (\$250.00) each. (as added by Ord. #833, Jan. 2005)

TITLE 10

ANIMAL CONTROL<sup>1</sup>

CHAPTER

1. IN GENERAL.
2. DOGS, CATS & RABIES CONTROL.
3. VICIOUS DOGS.

CHAPTER 1

IN GENERAL

SECTION

- 10-101. Definitions.
- 10-102. Application of chapter.
- 10-103. Running at large prohibited.
- 10-104. Swine prohibited within corporate limits.
- 10-105. Accommodations for animals to be kept clean.
- 10-106. Right of entry.
- 10-107. Cruelty to animals.
- 10-108. Impoundment.

10-101. Definitions. Wherever in this chapter the following terms are used, they shall have the meanings respectively ascribed to them in this section.

(1) "Animals and fowls" as specifically named herein, by whatever name they might be called, includes every age, and sex of each of the herein named species of animals and fowls.

(2) "Keeper" refers to any person, firm, or corporation owning, keeping, having, using or maintaining any of the animals or fowls herein referred to.

(3) "Person" includes any individual, firm, or corporation.

(4) "Approval" means approval by the director of health pursuant to power granted to him in this chapter.

(5) "Rodent-proof" is a state or condition not conducive to entry, feeding, or harboring of rodents.

(6) "Sanitary" means a condition of good order and cleanliness which precludes the probability of disease transmission.

(7) "Director of health" refers to the legal health authority of the community or his authorized representative. (1983 Code, § 3-101)

10-102. Application of chapter. No person shall keep, maintain, or cause to be kept any horses, mules, donkeys, cattle, chickens, turkeys, ducks, geese,

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<sup>1</sup>Charter reference

Corporate Powers: art I, § 1.04(o)

goats, sheep, hares, or similar animals or fowls either domesticated or non-domesticated except under conditions hereinafter set forth in the provisions of this chapter. (1983 Code, § 3-102)

10-103. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any horses, mules, donkeys, cattle, chickens, turkeys, ducks, geese, goats, sheep, horses, dogs, cats or similar animals or fowls, either domesticated or non-domesticated, to knowingly or negligently permit any of them to run at large in any street, alley or unenclosed lot within the corporate limits. (1983 Code, § 3-103)

10-104. Swine prohibited within the corporate limits. It shall be unlawful for any person to keep confined or to let run at large any hog or hogs, pig or pigs, within the corporate limits. (1983 Code, § 3-104)

10-105. Accommodations for animals to be kept clean. No animals or fowls described in section 10-102 of this chapter shall be kept in any place in which manure or liquid discharges from such animals or fowls shall collect or accumulate to any degree of offensiveness. Such manure and liquids shall be at once removed to some proper place of disposal and/or effectively stored between periods of removal in closed containers which shall provide for the maximum practical fly, rodent and other control.

Stalls, stables, pens, yards, and appurtenances in which such animals and fowls are kept shall at all times be maintained in a clean and wholesome condition, so that no offensive odor shall be allowed to escape therefrom, and no rodents, flies or other insects will be able to breed therein or become attracted thereto.

Buildings, pens, yards, and appurtenances constructed for the purpose of housing and impounding animals and fowls shall be located with the view of adequate drainage and constructed so as to facilitate routine cleaning. (1983 Code, § 3-108)

10-106. Right of entry. It shall be the duty of any authorized representative of the City of Winchester to enter onto any premise, public or private, at any reasonable hour of the day to make inspections for the purpose of carrying out the provisions of this chapter. (1983 Code, § 3-109, as amended by Ord. #601, Nov. 1989)

10-107. Cruelty to animals. (1) No person having charge of any animal and no keeper of any pound, kennel, coop, pen, veterinary hospital, or other such places where animals or fowls may be kept or impounded shall allow the same or any animal therein by reason of want of care, food, ventilation, or cleanliness or otherwise to be or to become dangerous or detrimental to human life, health or welfare.

(2) Any person tying a box, can or paper bag to a dog's tail or any other animals tail or otherwise willfully and maliciously hurting or needlessly teasing or worrying or wounding animals or in any way mistreating them, shall be deemed guilty of a misdemeanor. (1983 Code, § 3-110)

10-108. Impoundment. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the director of health or by any police officer and confined in a pound provided or designated by the city council. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be sold or humanely destroyed. 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 city council.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the city council, to cover the costs of impoundment and maintenance. (1983 Code, § 3-111)

## CHAPTER 2

DOGS, CATS AND RABIES CONTROL

## SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs and cats 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 and cats suspected of being rabid.
- 10-207. Seizure and disposition of dogs and cats.
- 10-208. Summary destruction authorized.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated §§ 68-8-101 through 68-8-114) or other applicable law. (1983 Code, § 3-201)

10-202. Dogs and cats to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog or cat which does not wear a tag evidencing the vaccination and registration required by section 10-201 above. (1983 Code, § 3-202)

10-203. Running at large prohibited.<sup>1</sup> It shall be unlawful for any person knowingly to permit a dog or cat owned by him or under his control or that may be habitually found on premises owned or occupied by him, to go upon the premises of another or upon a highway, public street or road unless said dog or cat is restrained by a secure leash and held by a responsible person, which is to be interpreted consistent with state law. (1983 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. (1983 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. (1983 Code, § 3-205)

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<sup>1</sup>State law reference

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

10-206. Confinement of dogs and cats suspected of being rabid. If any dog or cat has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the director of health, rabies control officer of the city or county or any police officer may cause such dog or cat to be confined or isolated for such time as he deems reasonably necessary to determine if such dog or cat is rabid. (1983 Code, § 3-206)

10-207. Seizure and disposition of dogs and cats. Any dog or cat found running at large may be seized by the officers or persons designated in section 10-206 above and placed in a pound provided or designated by the city council. If said dog or cat 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 or cat by paying a reasonable pound fee, in accordance with a schedule approved by the city council, or the dog or cat will be sold or humanely destroyed. If said dog or cat is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within two (2) days. No dog or cat shall be released in any event from the pound unless or until such dog or cat has been vaccinated and has a tag evidencing such vaccination placed on its collar. (1983 Code, § 3-207)

10-208. Summary destruction authorized. When, because of its viciousness or apparent infection with rabies, a dog or cat found running at large cannot be safely impounded it may be summarily destroyed by the director of health or any policeman.<sup>1</sup> (1983 Code, § 3-208)

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<sup>1</sup>State law reference

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

CHAPTER 3

VICIOUS DOGS

SECTION

- 10-301. Definitions.
- 10-302. Vicious dogs prohibited.
- 10-303. Procedure for determining that a dog is vicious.
- 10-304. Impoundment of vicious dogs.
- 10-305. Court proceedings against the owner.
- 10-306. Court findings.
- 10-307. Guard dogs.
- 10-308. Penalties.

10-301. Definitions. (1) "Confined" shall mean securely confined indoors, within an automobile or other vehicle, or confined in a securely enclosed and locked pen or structure upon the premises of the owner of such dog.

(2) "Muzzle" shall mean a device, constructed of strong, bite-resistant material, which fastens over the mouth of a dog so as to prevent it from biting any person or other animal.

(3) "Physical restraint" shall mean a muzzle and a leash not to exceed six feet (6'). The leash must be controlled by an adult physically capable of controlling such dog. The muzzle must not cause injury to the dog.

(4) "Securely enclosed and locked pen or structure" shall mean a fenced-in area that shall be a minimum of five feet (5') wide, ten feet (10') long, and five feet (5') in height above grade, and with a horizontal top covering said area, all to be at least nine (9) gauge chain link fencing with necessary steel supporting the posts. The floor shall be at least three inches (3") of poured concrete with the bottom edge of the fencing embedded in the concrete or extending at least one foot (1') below grade. The gate must be of the same materials as the fencing, fit securely, and be kept securely locked. The owner shall post the enclosure with a clearly visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property. The enclosure shall contain and provide protection from the elements for the dog.

(5) "Vicious dog" shall mean any dog which:

(a) Approaches any person in an aggressive, menacing or terrorizing manner or in an apparent attitude of attack if such person is upon any public ways, including streets and sidewalks, or any public or private property; or

(b) Has a known propensity, tendency, or disposition to attack, inflict injury to or to otherwise endanger the safety of persons or domestic animals; or

(c) Without provocation, bites or inflicts injury or otherwise attacks or endangers the safety of any person or domestic animal; or

(d) Is trained for dog fighting or which is owned or kept primarily or in part for the purpose of dog fighting. (as added by Ord. #857, June 2006)

10-302. Vicious dogs prohibited. It shall be unlawful for any person to keep or harbor a vicious dog within the corporate limits of the City of Winchester unless said vicious dog is confined in compliance with this chapter. (as added by Ord. #857, June 2006)

10-303. Procedure for determining that a dog is vicious. (1) Upon his own complaint alleging a dog to be vicious, or upon the receipt of such a complaint signed by one or more residents of Winchester, the animal control officer shall hold a hearing within five (5) days of serving notice to the dog owner. The purpose of the hearing shall be to determine whether such dog is, in fact, vicious. The dog owner shall be notified by a certified letter of the date, time, place, and purpose of the hearing and may attend and have an opportunity to be heard.

(2) In making the determination as to whether a dog is vicious, the animal control officer shall consider, but is not limited to, the following criteria:

- (a) Provocation;
- (b) Severity of attack or injury;
- (c) Previous aggressive history of the dog;
- (d) Observable behavior of the dog;
- (e) Site and circumstances of the incident;
- (f) Age of the victim;
- (g) Statements from witnesses and other interested parties;
- (h) Reasonable enclosures already in place;
- (i) Height and weight of the dog.

(3) Within five (5) days of the hearing, the animal control officer shall determine whether to declare the dog vicious and shall within five (5) days after such determination notify the owner by certified mail of the dog's designation as a vicious dog and the specific restrictions and conditions for keeping the dog. If the dog is declared vicious, its owner shall confine the dog within a secure enclosure and whenever the dog is removed from the secure enclosure it shall be physically restrained, as defined in this chapter. The owner of the vicious dog shall notify residents of all abutting properties, including those across the street, of such findings. This notice to occupants of abutting properties shall be by certified mail, return receipt requested, and shall be at the owner's sole expense. The animal control officer may:

- (a) Vary the minimum requirements of a secure enclosure if the owner's residence cannot accommodate a secure enclosure as defined in this chapter; or



(b) Permit an alternate method of enclosure provided that, in the sole discretion of the animal control officer, such alternate method fulfills the objectives as a secure enclosure.

(4) No dog shall be declared vicious if the threat, injury, or damage was sustained by a person who:

(a) Was committing a crime or willful trespass or other tort upon the premises occupied by the owner of the dog; or

(b) Was teasing, tormenting, abusing, assaulting or provoking the dog; or

(c) Was committing or attempting to commit a crime.

No dog shall be declared vicious as the result of protecting or defending a human being, any other animal, or itself against an unjustified attack or assault. (as added by Ord. #857, June 2006)

10-304. Impoundment of vicious dogs. Any vicious dog, not in compliance with the provisions this chapter, may be taken into custody by the appropriate authorities of the City of Winchester, or agents acting on behalf of the city, and impounded. The dog's owner shall be solely responsible for payment of all boarding fees associated with the impounding of the dog, in addition to any punitive fines to be paid. (as added by Ord. #857, June 2006)

10-305. Court proceedings against the owner. If any vicious dog is impounded, the City of Winchester may institute proceedings in general sessions court charging the owner with violation of this chapter. Nothing in this section, however, shall be construed as preventing the City of Winchester or any citizen from instituting a proceeding for violation of this chapter where there has been no impoundment. (as added by Ord. #857, June 2006)

10-306. Court findings. If a complaint has been filed in general session court against the owner of a dog for a violation of this chapter, the dog shall not be released from impoundment or disposed of except on order of the court, payment of all charges and costs under this chapter, including penalties for violating this chapter. The court may, upon making a finding that the dog is vicious pursuant to this chapter, order the dog to be destroyed in a humane manner. (as added by Ord. #857, June 2006)

10-307. Guard dogs. It shall be unlawful for any person to place or maintain guard dogs in any area of the City of Winchester for the protection of persons or property unless the following provisions are met:

(1) The guard dog shall be confined; or

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

(3) The owner or other persons in control of the premises upon which a guard dog is maintained shall post warning signs stating that such a dog is on

the premises. At least one (1) such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible from either the curb line or a distance of fifty feet (50'), whichever is lesser and shall contain a telephone number where some person responsible for controlling such guard dog can be reached twenty-four (24) hours a day. (as added by Ord. #857, June 2006)

10-308. Penalties. Any person violating the provisions of this chapter upon conviction shall be fined fifty dollars (\$50.00) and each day of violation shall be deemed a separate violation. (as added by Ord. #857, June 2006)

## TITLE 11

MUNICIPAL OFFENSES<sup>1</sup>

## CHAPTER

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

## CHAPTER 1

ALCOHOL<sup>2</sup>

## SECTION

- 11-101. Public drunkenness.  
 11-102. Drinking beer, etc., on streets, etc.  
 11-103. Minors in beer places.

11-101. Public drunkenness. See Tennessee Code Annotated § 39-17-310; see also title 33, chapter 8. (1983 Code, § 10-228, modified)

11-102. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open container of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park,

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<sup>1</sup>Municipal 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.

<sup>2</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

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

public school ground, or other public place unless the place has an appropriate permit and/or license for on premises consumption. It shall also be unlawful for any person to have an open container of beer or intoxicating liquor in his or her motor vehicle or in the above set out public places. (1983 Code, § 10-229)

11-103. 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. (1983 Code, § 10-224)

## CHAPTER 2

GAMBLING, FORTUNE TELLING, ETC.

## SECTION

11-201. Gambling prohibited.

11-202. Fortune telling, etc.

11-201. Gambling prohibited. See Tennessee Code Annotated § 39-17-501 et seq. (1983 Code, §§ 10-215 and 10-216, modified)

11-202. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1983 Code, § 10-234)

## CHAPTER 3

OFFENSES AGAINST THE PERSON

## SECTION

11-301. Assault and battery.

11-302. Coercing people not to work.

11-301. Assault and battery. It shall be unlawful for any person to commit an assault and battery upon another person. (1983 Code, § 10-201)

11-302. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It expressly is not the purpose of this section to prohibit peaceful picketing. (1983 Code, § 10-230)

## CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

## SECTION

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

11-401. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1983 Code, § 11-501)

11-402. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

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

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

(c) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

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

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

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

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

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



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

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

(a) Municipal vehicles. Any vehicle of the city while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the city, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the board of mayor and aldermen. Hours for the use of an amplified or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1983 Code, § 10-233)

## CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

## SECTION

11-501. Escape from custody or confinement.

11-502. Impersonating a government officer or employee.

11-503. False emergency alarms.

11-504. Resisting interfering with city personnel.

11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1983 Code, § 10-209)

11-502. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1983 Code, § 10-211)

11-503. False emergency alarms. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1983 Code, § 10-217)

11-504. Resisting or interfering with city personnel. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the city while such officer, employee is performing or attempting to perform his municipal duties, or to resist arrest. (1983 Code, § 10-210)

## CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

## SECTION

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Weapons and firearms generally.

11-601. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1983 Code, § 10-213)

11-602. Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1983 Code, § 10-214)

11-603. Weapons and firearms generally. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument. It shall also be unlawful for any unauthorized person to discharge a firearm within the city. (1983 Code, § 10-212, modified)

## CHAPTER 7

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

## SECTION

- 11-701. Trespassing.  
11-702. Trespassing on trains.  
11-703. Malicious mischief.  
11-704. Interference with traffic.

11-701. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall 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.<sup>1</sup> (1983 Code, § 10-221)

11-702. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1983 Code, § 10-222)

11-703. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1983 Code, § 10-227)

11-704. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (1983 Code, § 10-232)

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<sup>1</sup>Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

CHAPTER 8

MISCELLANEOUS

SECTION

11-801. Abandoned refrigerators, etc.

11-802. Caves, wells, cisterns, etc.

11-803. Curfew for minors.

11-804. Synthetic drugs prohibited.

11-805. Ephedrine control.

11-801. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door or otherwise sealing the door in such a manner that it cannot be opened by any child. (1983 Code, § 10-226)

11-802. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1983 Code, § 10-231)

11-803. Curfew for minors. It shall be unlawful for any person under the age of sixteen (16) years to be abroad at night between 11:00 P.M. and 5:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1983 Code, § 10-225)

11-804. Synthetic drugs prohibited. (1) Definitions. (a) "Synthetic drug" as used in this section shall mean:

(i) Any substance, however denominated, and no matter the common street, brand or trade name of such substance, containing one (1) or more of the following chemicals:

(A) Salvia divinorum or salvinorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture, or preparation of such plant, its seeds, or extracts;

(B) (6aR, 10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol (some trade or other names being: HU-210);

(C) 1-Pentyl-3-(1-naphthoyl) indole (some trade or other names being: JWH-018);

(D) 1-Butyl-3-(1naphthoyl) indole (some trade or other names being: JWH-073);

(E) 1-(3{trifluoromethylphenyl}) piperazine (some trade or other names being: TFMPP);

(F) 3, 4-methylenedioxypropylvalerone (MDPV), (some trade or other names being: MDPK);

(G) 4-methylmethcathinone (Mephedrone);

(H) 3,4 - methylenedioxypropylmethcathinone (Methylone);

(I) 3, - methoxymethcathinone;

(J) 4 - methoxymethcathinone;

(K) 3 - fluoromethcathinone;

(L) 4 - fluoromethcathinone.

(ii) Any other substance which mimics the effects of any controlled substance (to include, but not limited to, any opiates, opium derivatives, hallucinogenic substances, methamphetamine, MDMA, cocaine, PCP, marijuana, cannabis, cannabinoids, cannabicyclohexanol, and tetrahydrocannabinoids), to include, but not limited to, "bath salts," "plant food," "incense," or "insect repellent," but excluding legitimate bath salts containing as the main ingredient the chemicals sodium chloride (sea salt) and/or magnesium sulfate (Epsom salt), or legitimate plant foods or insect repellent not intended for human consumption, or legitimate incense used as an odor elimination product.

(iii) Any similar substances to the above which when inhaled, or otherwise ingested, may produce intoxication, stupefaction, giddiness, paralysis, irrational behavior, or in any manner, changes, distorts, or disturbs the auditory, visual, or mental process, and the product or substance has no other apparent legitimate purpose for consumers.

(b) "Deliver " or "delivery " as used in this section shall mean the actual, constructive, or attempted transfer from one person to another of a synthetic drug as defined herein, with or without any consideration, and whether or not there is an agency relationship.

(c) "Manufacture" as used in this section shall mean the production, preparation, propagation, compounding, conversion, or processing of any synthetic drug as defined herein, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that the term "manufacture" shall not include the

preparation, compounding, packaging, or labeling of any synthetic drug as defined herein by:

(i) A practitioner as an incident to administering or dispensing any synthetic drug as defined herein in the course of professional practice; and

(ii) A practitioner, or an authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

(d) "Administer" as used in this section shall mean the direct application of a synthetic drug as defined herein, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(i) A practitioner or by the practitioner's authorized agent in the practitioner's presence; or

(ii) The patient or research subject at the direction and in the presence of the practitioner.

(e) "Agent" as used in this section shall mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. "Agent" does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(f) "Dispense" as used in this section shall mean to deliver a synthetic drug as defined herein to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(g) "Distribute" as used in this section shall mean to deliver other than by administering or dispensing a synthetic drug as defined herein.

(h) "Practitioner" as used in this section shall mean:

(i) A physician, dentist, optometrist, veterinarian, pharmacist, scientific investigator or other person who is licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee; or

(ii) A pharmacy, hospital or other institution licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee.

(i) "Person" as used in this section shall mean any individual, corporation, partnership, trust, estate, association, organization, business, or any other legal entity.

(j) "Sell" or "sale" as used in this section shall mean a bargained-for or agreed upon offer and acceptance and an actual or constructive transfer or delivery of a synthetic drug as defined herein.

(k) "Production" as used in this section shall mean the planting, cultivating, tending, growing, or harvesting of a synthetic drug as defined in this section.

(l) "Possess" or "possession" as used in this section shall mean either actual possession or constructive possession.

(i) "Actual possession" as used in this section shall mean the exercise of direct physical control or dominion over an object.

(ii) "Constructive possession" as used in this section shall mean the power and intent to exercise control over an object although not in actual physical possession of an object.

Possession may be sole or joint and may be inferred from all relevant facts surrounding the circumstances.

(2) Prohibited conduct. (a) It shall be unlawful for any person to use, possess, sell, deliver, distribute, transport, transfer, trade, barter, exchange or purchase any synthetic drug as defined herein, or to attempt to use, possess, sale, deliver, distribute, transport, transfer, trade, barter, exchange or purchase any synthetic drug as defined herein, within the city corporate limits.

(b) It shall be unlawful for any person to publicly display for sale any synthetic drug as defined herein, within the city corporate limits.

(3) Exception. An act otherwise prohibited and unlawful under this section shall not be unlawful if done by or under the direction of a "practitioner" as defined herein, provided such act is otherwise permitted by general law, or to otherwise prohibit substances regulated as controlled substances by the United States Food and Drug Administration or the Drug Enforcement Administration, and is not intended to and shall not be construed to supersede any other federal or state law pertaining to synthetic drugs now or hereafter in effect, but to supplement any such laws in so far as lawfully permitted.

(4) Civil penalty. Any City of Winchester sworn law enforcement officer is hereby empowered to issue a citation to any person for any violation of the provisions of this section. Citations so issued may be delivered in person to the violator or they may be delivered by registered mail to the person so charged if he cannot be readily found. Any citation so delivered or mailed shall direct the alleged violator to appear in city court on a specific day and at a specific hour stated upon the citation; and the time so specified shall be not less than seventy-two (72) hours after its delivery in person to the alleged violator, or less than ten (10) days of mailing of same. Citations issued for a violation of any of the provisions of this section shall be tried in the city court. The city court judge shall determine whether a defendant has committed a violation of this section. The city shall bear the burden of proof by a preponderance of the evidence. If a defendant pleads guilty or "no contest" to the alleged violation, or



is found guilty by the city court judge, the city court judge shall assess a civil monetary fine as a penalty against any person found to have violated any of the provisions of this section, said fine to be in an amount of fifty dollars (\$50.00) for each violation. Each day of violation shall be deemed a separate violation. Each separate package containing any substance containing any synthetic drug as defined herein shall be deemed a separate violation. In addition to the civil monetary fine, any defendant who pleads guilty or "no contest" to the alleged violation, or who is found guilty by the city court judge, shall be assessed court costs as provided by law, and in addition shall be ordered to pay an administrative fee to the city in an amount to recoup the cost incurred by the city law enforcement agency for any chemical test conducted by or at the request of the law enforcement agency that is used to determine the chemical content of any substance collected from the defendant which formed the basis for any citation charge. Appeal may be had as provided by law. (as added by Ord. #936, Oct. 2011)

11-805. Ephedrine control. (1) Definitions. As used in this section, the following words and/or phrases shall have the following meanings as set forth herein.

(a) "Ephedrine." All forms of ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, phenylpropanolamine and all other combinations of these chemicals.

(b) "Ephedrine product." Any product that contains ephedrine, its salts, isomers, or salts of isomers, as its sole active ingredient or in combination with less than therapeutically significant qualities of other active ingredients.

(c) "Person." Any individual, corporation, partnership, trust, limited liability company, firm, association or other entity selling an ephedrine product to customers.

(d) "Sell." To knowingly furnish, give away, exchange, transfer, deliver, surrender or supply, whether for monetary gain or not.

(e) "Package." Any number of pills, tablets, capsules, caplets or individual units of a substance held within a container intended for sale.

(2) Restrictions on public access to ephedrine products. It shall be illegal to sell, deliver, or distribute ephedrine, pseudoephedrine, their salts, their optical isomers or salts of their optical isomers, without a valid prescription from a physician or other healthcare professional licensed by the State of Tennessee to write prescriptions and filled by a Tennessee-licensed pharmacist.

(3) Exception. The prohibition contained in subsection (b) shall not apply to the sale of animal feed containing ephedrine or dietary supplement products containing natural occurring or herbal Ephedra and extract of Ephedra.

(4) Reporting theft of ephedrine products. (a) Any person who sells ephedrine products and who discovers a theft, disappearance or other loss of an ephedrine product shall report the theft, disappearance, or loss in writing to the Winchester Police Department within twenty-four (24) hours of such a discovery.

(b) Any person who sells ephedrine products shall report to the Winchester Police Department any difference between the quantities of ephedrine products shipped and the quantity of ephedrine products received within twenty-four (24) hours of discovery.

(5) Penalty and injunctive relief. (a) Each violation of this section shall be considered a separate offense.

(b) The city administrator may institute an action for injunctive relief to enforce the provisions of this section.

(c) Every act or omission constituting a violation of any of the provisions of this section by any agent or employee of any person shall be deemed and held to be the act of such person, and said person shall be punishable in the same manner as if said act or omission had been done or omitted by him/her or it personally, provided such an act or omission was within the scope of employment or the scope of authority of such agent or employee. (as added by Ord. #959, June 2013)

TITLE 12

BUILDING, UTILITY, ETC. CODES<sup>1</sup>

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. HOUSING CODE.
6. CODE ADMINISTRATION; PERMITS.
7. AMUSEMENT DEVICE CODE.
8. STANDARD EXCAVATION AND GRADING CODE.
9. EXISTING BUILDINGS CODE.
10. SWIMMING POOL CODE.
11. UNSAFE BUILDING ABATEMENT CODE.
12. MECHANICAL CODE.
13. RESIDENTIAL CODE.
14. PROPERTY MAINTENANCE CODE.
15. ENERGY CONSERVATION CODE.

CHAPTER 1

BUILDING CODE<sup>2</sup>

SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Available in city clerk's office.
- 12-104. Violations and penalties.

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<sup>1</sup>Ord. #921 adopted the 1999 North Carolina Accessible Building Code with 2003 updates by reference as though they were copied herein fully.

<sup>2</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

Charter references

Corporate powers; title I, § 1.04.

City legislation: title II, § 2.09.

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 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 International Building Code,<sup>1</sup> 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. (Ord. #597, Apr. 1989, modified, as amended by Ord. #724, Oct. 1997, Ord. #730, June 1998, Ord. #835, Feb. 2005, and Ord. #921, Oct. 2010)

12-102. Modifications. (1) Whenever in the building code or the 1999 North Carolina Accessible Building Code reference is made to the duties of a certain official named therein, that designated official of the City of Winchester, who has duties corresponding to those of the named official in said code, shall be deemed to be the responsible official insofar as enforcing the provisions of the above referenced codes are concerned.

(2) The schedule of permit fees shall be as approved by the board of mayor and council by ordinance from time to time, a copy of which shall be available in the office of the city recorder. (1983 Code, § 4-102, as replaced by Ord. #921, Oct. 2010)

12-103. Available in city clerk's office. Pursuant to the requirements of the Tennessee Code Annotated § 6-54-502 one (1) copy of the building code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public. (1983 Code, § 4-103)

12-104. Violations and penalties. It shall be unlawful for any person to violate or fail to comply with any provisions of the above referenced and adopted codes and as may be amended from time to time. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (1983 Code, § 4-104, as replaced by Ord. #921, Oct. 2010)

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

CHAPTER 2

PLUMBING CODE<sup>1</sup>

SECTION

12-201. Plumbing code adopted.

12-202. Modifications.

12-203. Available in city clerk's office.

12-204. Violations and penalties.

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the International Plumbing Code,<sup>2</sup> 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (Ord. #597, Apr. 1989, modified, as amended by Ord. #724, Oct. 1997; Ord. #730, June 1998; Ord. #810, Sept. 2003, Ord. #835, Feb. 2005, and Ord. #921, Oct. 2010)

12-202. Modifications. (1) Whenever in the plumbing code reference is made to the duties of a certain official named therein, that designated official of the City of Winchester, who has duties corresponding to those of the named official in said code, shall be deemed to be the responsible official insofar as enforcing the provisions of the above referenced code is concerned.

(2) The schedule of permit fees shall be as approved by the board of mayor and council by ordinance from time to time, a copy of which shall be available in the office of the city recorder. (1983 Code, § 4-202, as replaced by Ord. #921, Oct. 2010)

12-203. Available in city clerk's office. Pursuant to the requirements of Tennessee Code Annotated § 6-54-502 one (1) copy of the plumbing code has

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<sup>1</sup>Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public. (1983 Code, § 4-203)

12-204. Violations and penalties. It shall be unlawful for any person to violate or fail to comply with any provisions of the above referenced and adopted code and as may be amended from time to time. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (1983 Code, § 4-204, as replaced by Ord. #921, Oct. 2010)

CHAPTER 3

ELECTRICAL CODE<sup>1</sup>

SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in recorder's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Violations.
- 12-305. Enforcement.
- 12-306. Fees.

12-301. Electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the International Electrical Code,<sup>2</sup> 2006 edition, as prepared by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (as replaced by Ord. #921, Oct. 2010)

12-302. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, section 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-303. Permit required for doing electrical work. No electrical work shall be done within the city until a permit therefor has been issued by the city. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician.

12-304. Violations. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code.

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<sup>1</sup>Municipal code reference

Fire protection, fireworks and explosives: title 7.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-305. Enforcement. The electrical inspector shall be such person as the board of mayor and aldermen shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code.

12-306. Fees. The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated, section 68-17-143 for electrical inspections by deputy inspectors of the state fire marshal.



CHAPTER 4

GAS CODE<sup>1</sup>

SECTION

12-401. Gas code adopted.

12-402. Definitions.

12-403. Enforcement of gas code.

12-404. Violation and penalties.

12-401. Gas code adopted. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the International Fuel Gas Code,<sup>2</sup> 2006 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. One (1) copy of the fuel gas code shall be kept on file in the office of the city clerk for the use and inspection of the public. (Ord. #597, Apr. 1989, modified, as amended by Ord. #724, Oct. 1997, Ord. #730, June 1998, Ord. #835, Feb. 2005, and Ord. #921, Oct. 2010)

12-402. Definitions. The following definitions are provided for the purpose of interpretation and administration of the gas code.

(1) "Inspector" means the person appointed as inspector, and shall include each assistant inspector, if any, from time to time acting as such under this chapter by appointment of the city council.<sup>3</sup>

(2) "Person" means any individual, partnership, firm, corporation, or any other organized group of individuals.

(3) "Gas company" means any person distributing gas within the corporate limits or authorized and proposing to so engage.

(4) "Certificate of approval" means a document or tag issued and/or attached by the inspector to the inspected material, piping, or appliance installation, filled out, together with date, address of the premises, and signed by the inspector.

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<sup>1</sup>Municipal code reference  
Water and sewers: title 18

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

<sup>3</sup>Municipal code reference  
Building official - - appointment, authority, duties: § 12-601.

(5) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers. (1983 Code, § 4-402)

12-403. Enforcement of gas code. The building official is hereby designated as the gas inspector, and as such shall be responsible for enforcing the provisions of the gas code. The gas inspector shall be authorized and is hereby directed to make any and all necessary inspections of gas equipment, appliances and piping to insure compliance with the gas code and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to discontinue gas service to any person or place not complying with the gas code. (1983 Code, § 4-403)

12-404. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of the gas code shall be guilty of a misdemeanor, and upon conviction thereof shall be fined under the general penalty clause for this code of ordinances, or the license of such person may be revoked, or both fine and revocation of license may be imposed. (1983 Code, § 4-404)

## CHAPTER 5

HOUSING CODE

## SECTION

12-501. Housing code adopted.

12-502. Modifications.

12-503. Available in city clerk's office.

12-504. Violations.

12-505. Fences required for excavations, swimming pools, etc.

12-501. Housing code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506 and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the Standard Housing Code,<sup>1</sup> 1997 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 housing code. (Ord. #597, Apr. 1989, modified, as amended by Ord. #724, Oct. 1997, and Ord. #730, June 1998)

12-502. Modifications. (1) Definitions Wherever the housing code refers to the "Housing Official" it shall mean the person appointed or designated by the city council to administer and enforce the provisions of the housing code.<sup>2</sup> Wherever the "Department of Law" is referred to it shall mean the city attorney. Wherever the "Chief Appointing Authority" is referred to it shall mean the city council.

(2) Penalty clause deleted. Section 108 of the housing code is deleted. (1983 Code, § 4-502)

12-503. Available in city clerk's office. Pursuant to the requirements of Tennessee Code Annotated § 6-54-502 one (1) copy of the housing code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public. (1983 Code, § 4-503, modified)

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

<sup>2</sup>Municipal code reference

Building official - - appointment, authority, duties: § 12-601.

12-504. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1983 Code, § 4-504)

12-505. Fences required for excavations, swimming pools, etc. All persons owning lots fronting the public thoroughfare and streets of the city on which there are excavations, cellars or swimming pools or other dangerous places, will be required to have such lots fenced with substantial plank or wire fence. (1983 Code, § 4-505)

## CHAPTER 6

CODE ADMINISTRATION; PERMITS

## SECTION

12-601. Building official--appointment, authority, duties.

12-602. Permit issuance; hearing on denials.

12-603. Penalty clauses deleted from codes.

12-601. Building official--appointment, authority, duties. There is hereby created the position and office of the building official which position and office shall be filled by appointment of the mayor. The building official or his duly authorized representative shall enforce all the codes contained in, and shall make all inspections required by, this title. He shall have the right to enter upon any structure for the purpose of making such inspections. (1983 Code, § 4-601)

12-602. Permit issuance; hearing on denials. (1) Any and all permits required by this chapter shall be secured from the city clerk. Such permit shall not be issued by the clerk until all the requirements of such permits, as set out in this chapter, have been met, all fees paid and any bond requirements complied with.

(2) Should the clerk refuse to issue any permit, the applicant may have a hearing before the city council to determine if such permit should be granted. The following procedure must be followed if a hearing is to be granted.

(a) Notification to the city council must be filed with the clerk within ten (10) days after the denial of the permit.

(b) Such notification shall state all pertinent facts and shall show clearly on what grounds applicant bases his contention that the permit was improperly denied.

(c) Applicant shall appear in person, or through his attorney, at the hearing and shall have with him all his witnesses. The applicant may examine the clerk and any of his witnesses at the hearing.

(3) The city council shall constitute the final administrative body deciding upon permits. (1983 Code, § 4-602)

12-603. Penalty clauses deleted from codes. All penalty clauses contained in the codes adopted in this chapter are hereby deleted. (1983 Code, § 4-603)

## CHAPTER 7

AMUSEMENT DEVICE CODE<sup>1</sup>

## SECTION

12-701. Amusement device code adopted.

12-702. Modifications.

12-703. Available in city clerk's office.

12-704. Violations.

12-701. Amusement device code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-516, and for the purpose of regulating the installation, construction, alteration, repair, removal, operation and use of amusement rides and devices. The Standard Amusement Device Code<sup>2</sup>, 1997 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 amusement device code. (Ord. #597, Apr. 1989, modified, as amended by Ord. #724, Oct. 1997, and Ord. #730, June 1998)

12-702. Modifications. Definitions. Whenever the amusement device code refers to the "Chief Administrator," it shall be deemed to be a reference to the city council. When the "Building Official" is named it shall, for the purposes of the amusement device code, mean such person as the city council has appointed or designated to administer and enforce the provisions of the amusement device code.

12-703. Available in city clerk's office. Pursuant to the requirements of the Tennessee Code Annotated § 6-54-502 one (1) copy of the amusement device code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

12-704. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the amusement device code as herein adopted by reference and modified.

## CHAPTER 8

STANDARD EXCAVATION AND GRADING CODE<sup>1</sup>

## SECTION

12-801. Excavation and grading code adopted.

12-802. Modifications.

12-803. Available in city clerk's office.

12-804. Violations.

12-801. Excavation and grading code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-516, and for the purpose of setting forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments, the Standard Excavation and Grading Code<sup>2</sup>, 1975 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 excavation and grading code. (Ord. #597, Apr. 1989, modified)

12-802. Modifications. Definitions. Whenever the excavation and grading code refers "Building Official" is named it shall, for the purposes of the excavation and grading code, mean such person as the city council has appointed or designated to administer and enforce the provisions of the excavating and grading code.

12-803. Available in city clerk's office. Pursuant to the requirements of the Tennessee Code Annotated § 6-54-502 one (1) copy of the amusement device code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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



12-804. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the amusement device code as herein adopted by reference and modified.

CHAPTER 9

EXISTING BUILDINGS CODE<sup>1</sup>

SECTION

- 12-901. Existing buildings code adopted.
- 12-902. Modifications.
- 12-903. Available in city clerk's office.
- 12-904. Violations and penalties.

12-901. Existing buildings code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-516, and for the purpose of securing the public safety, health and general welfare through structural strength, stability, sanitation, adequate light and indoor air quality, and safety to life and property from fire and other hazards incident to the alteration, repair, removal, demolition, use and occupancy of existing buildings or structures, the International Existing Buildings Code,<sup>2</sup> 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the existing buildings code. (Ord. #597, Apr. 1989, modified, as amended by Ord. #724, Oct. 1997, Ord. #730, June 1998, Ord. #835, Feb. 2005, and Ord. #921, Oct. 2010)

12-902. Modifications. (1) Whenever in the existing buildings code reference is made to the duties of a certain official named therein, that designated official of the City of Winchester, who has duties corresponding to those of the named official in said code, shall be deemed to be the responsible official insofar as enforcing the provisions of the above referenced codes are concerned.

(2) The schedule of permit fees shall be as approved by the board of mayor and council by ordinance from time to time, a copy of which shall be available in the office of the city recorder. (as replaced by Ord. #921, Oct. 2010)

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-903. Available in city clerk's office. Pursuant to the requirements of the Tennessee Code Annotated § 6-54-502, one (1) copy of the existing building code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

12-904. Violations and penalties. It shall be unlawful for any person to violate or fail to comply with any provisions of the above referenced and adopted code and as may be amended from time to time. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as replaced by Ord. #921, Oct. 2010)

## CHAPTER 10

SWIMMING POOL CODE<sup>1</sup>

## SECTION

12-1001. Swimming pool code adopted.

12-1002. Modifications.

12-1003. Available in city clerk's office.

12-1004. Violations.

12-1001. Swimming pool code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-516, and for the purpose of setting standards for the design, construction, or installation, alteration, repair or alterations of swimming pools, public or private and equipment related thereto. The Standard Swimming Pool Code<sup>2</sup>, 1997 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 swimming pool code. (Ord. #597, Apr. 1989, modified, as amended by Ord. #724, Oct. 1997, and Ord. #730, June 1998)

12-1002. Modifications. Definitions. Whenever the swimming pool code refers to the "Administrative Authority," it shall be deemed to be a reference to the Building Official or his authorized representative. When the "Building Official" is named it shall, for the purposes of the swimming pool code, mean such person as the city council has appointed or designated to administer and enforce the provisions of the swimming pool code.

12-1003. Available in city clerk's office. Pursuant to the requirements of the Tennessee Code Annotated § 6-54-502 one (1) copy of the amusement device code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

12-1004. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the amusement device code as herein adopted by reference and modified.

## CHAPTER 11

UNSAFE BUILDING ABATEMENT CODE

## SECTION

12-1101. Unsafe building abatement code adopted.

12-1102. Modifications.

12-1103. Available in city clerk's office.

12-1104. Violations.

12-1101. Unsafe building abatement code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506 and for the purpose of regulating buildings and structures to insure structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises, within or without the city, the Standard Unsafe Building Abatement Code<sup>1</sup>, 1985 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 unsafe building abatement code. (Ord. #597, Apr. 1989, modified)

12-1102. Modifications. Definitions. Whenever the unsafe building abatement code refers to the "Chief Appointing Authority," or the "Chief Administrator" it shall be deemed to be a reference to the city council. When the "Building Official" is named it shall, for the purposes of the unsafe building abatement code, mean such person as the city council has appointed or designated to administer and enforce the provisions of the unsafe building abatement code.

12-1103. Available in city clerk's office. Pursuant to the requirements of Tennessee Code Annotated § 6-54-502 one (1) copy of the unsafe building abatement code has been placed on file in the city clerks's office and shall be kept there for the use and inspection of the public.

12-1104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the unsafe building abatement code as herein adopted by reference and modified.

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 12

MECHANICAL CODE<sup>1</sup>

SECTION

- 12-1201. Mechanical code adopted.
- 12-1202. Modifications.
- 12-1203. Available in city clerk's office.
- 12-1204. Violations and penalties.

12-1201. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-516 and for the purpose of regulating the installation and maintenance of all electrical, gas, mechanical and plumbing systems, which may be referred to as service systems, the International Mechanical Code<sup>2</sup>, 2006 edition revisions, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (Ord. #597, Apr. 1989, modified, as amended by Ord. #724, Oct. 1997, Ord. #730, June 1998, Ord. #835, Feb. 2005, and Ord. #921, Oct. 2010)

12-1202. Modifications. (1) Whenever in the mechanical code reference is made to the duties of a certain official named therein, that designated official of the City of Winchester, who has duties corresponding to those of the named official in said code, shall be deemed to be the responsible official insofar as enforcing the provisions of the above referenced codes are concerned.

(2) The schedule of permit fees shall be as approved by the board of mayor and council by ordinance from time to time, a copy of which shall be available in the office of the city recorder. (as replaced by Ord. #921, Oct. 2010)

12-1203. Available in city clerk's office. Pursuant to the requirements of Tennessee Code Annotated § 6-54-502 one (1) copy of the mechanical code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

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<sup>1</sup>Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-1204. Violations and penalties. It shall be unlawful for any person to violate or fail to comply with any provisions of the above referenced and adopted code and as may be amended from time to time. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as replaced by Ord. #921, Oct. 2010)



CHAPTER 13

RESIDENTIAL CODE

SECTION

- 12-1301. Residential code adopted.
- 12-1302. Modifications.
- 12-1303. Available in recorder's office.
- 12-1304. Violations and penalties.

12-1301. Residential code adopted.<sup>1</sup> Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the fabrication, erection, construction, enlargement, alterations, repair, location, and use of detached one and two family dwellings and their appurtenances and accessory structures, the International Residential Code, One and Two Family Dwellings,<sup>2</sup> 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the residential code. (Ord. #724, Oct. 1997, as amended by Ord. #730, June 1998, Ord. #835, Feb. 2005, and Ord. #921, Oct. 2010)

12-1302. Modifications. (1) Whenever in the residential code reference is made to the duties of a certain official named therein, that designated official of the City of Winchester, who has duties corresponding to those of the named official in said code, shall be deemed to be the responsible official insofar as enforcing the provisions of the above referenced codes are concerned.

(2) The schedule of permit fees shall be as approved by the board of mayor and council by ordinance from time to time, a copy of which shall be available in the office of the city recorder. (Ord. #724, Oct. 1997, as amended by Ord. #730, June 1998, and Ord. #921, Oct. 2010)

12-1303. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the dwelling code has been placed on file in the recorder's office and shall be kept there for the use and

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<sup>1</sup>Exception: adjustment to Section R403 -- Footers: Single story dwelling requires a minimum of thirteen inch depth, eighteen inches wide with a minimum of eight inches concrete depth. Two Story Dwelling requires a minimum of thirteen inch depth, twenty-four inches wide with two runs of No. 5 rebar and 8 inches concrete depth.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

inspection of the public. (Ord. #724, Oct. 1997, as amended by Ord. #730, June 1998)

12-1304. Violations and penalties. It shall be unlawful for any person to violate or fail to comply with any provisions of the above referenced and adopted code and as may be amended from time to time. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #921, Oct. 2010)

CHAPTER 14

PROPERTY MAINTENANCE CODE

SECTION

12-1401. Property maintenance code adopted.

12-1402. Modifications.

12-1403. Violations and penalties.

12-1401. Property maintenance code adopted. A certain document, three (3) copies of which are on file in the office of the City Administrator of the City of Winchester, being marked and designated as the 2006 International Property Maintenance Code<sup>1</sup> (excluding the appeal board provisions), as published by the International Code Council, Inc., be and is hereby adopted as the Property Maintenance Code of the City of Winchester, in the State of Tennessee; for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said property maintenance code on file in the office of the City of Winchester are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance. (as added by Ord. #816, April 2004, and amended by Ord. #835, Feb. 2005, and Ord. #921, Oct. 2010)

12-1402. Modifications. (1) Whenever in the property maintenance code reference is made to the duties of a certain official named therein, that designated official of the City of Winchester, who has duties corresponding to those of the named official in said code, shall be deemed to be the responsible official insofar as enforcing the provisions of the above referenced codes are concerned.

(2) The schedule of permit fees shall be as approved by the board of mayor and council by ordinance from time to time, a copy of which shall be available in the office of the city recorder. (as added by Ord. #816, April 2004, and replaced by Ord. #921, Oct. 2010)

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

12-1403. Violations and penalties. It shall be unlawful for any person to violate or fail to comply with any provisions of the above referenced and adopted code and as may be amended from time to time. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #921, Oct. 2010)

## CHAPTER 15

ENERGY CONSERVATION CODE

## SECTION

12-1501. International energy conservation code adopted.

12-1502. Modifications.

12-1503. Available in recorder's office.

12-1504. Violations and penalty.

12-1501. International energy conservation code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for energy-efficient building envelopes and the installation of energy-efficient mechanical, lighting and power systems to establish energy-efficient buildings using prescriptive and performance-related provisions which will make possible the use of new materials and innovative techniques that conserve energy, the International Energy Conservation Code,<sup>1</sup> 2006 edition, as prepared and maintained by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code. (as added by Ord. #835, Feb. 2005, and replaced by Ord. #921, Oct. 2010)

12-602. Modifications. Whenever the international energy conservation code refers to duties of a certain official named therein, that designated official of the City of Winchester who has duties corresponding to those of the named official in the international energy conservation code shall be deemed to be the responsible official insofar as enforcing the provisions of the international energy conservation code are concerned. (as added by Ord. #835, Feb. 2005)

12-603. Available in clerk's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the international energy conservation code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #835, Feb. 2005)

12-604. Violation and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the international energy conservation code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty

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

Change 9, March 10, 2009

12-28

dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #835, Feb. 2005)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. ABANDONED OR JUNK VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Weeds.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Dead animals.
- 13-105. Health and sanitation nuisances.
- 13-106. Nuisances.

13-101. 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 city clerk or chief of police to cut such vegetation when it has reached the height of over ten (10) inches. (1983 Code, § 8-401)

13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1983 Code, § 8-404)

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1983 Code, § 8-405)

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<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

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

Wastewater treatment: title 18, chapter 2.

13-104. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1983 Code, § 8-406)

13-105. 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. (1983 Code, § 8-407)

13-106. Nuisances. (1) Nuisance declared. It is declared to be a nuisance 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 garbage, trash, litter, or debris, including but not limited to abandoned, wrecked and/or dismantled inoperable vehicles or equipment, 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. Such nuisance may be abated and the cost of the abatement shall be assessed against the owner of the property as stipulated and in the manner prescribed in this section.

(2) Designation of public officer or department. The board of commissioners shall designate an appropriate department or person to enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the department or person designated by the board of commissioners 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 a minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of municipal code § 13-106 of the City of Winchester, and that the property of such owner may be cleaned-up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;



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

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

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

(4) Clean-up at property owner's expense. If the 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 commissioners 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. The cost shall be a lien upon the property in favor of the city.

(5) 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 commissioners. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to Section 3 above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(6) Judicial review. Any person aggrieved by an order or act of board of commissioners under this section may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(7) 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, other municipal ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of garbage, trash, litter, or debris, including but not limited to abandoned, wrecked and/or dismantled inoperable vehicles or equipment, or any combination of the preceding elements.

## CHAPTER 2

SLUM CLEARANCE<sup>1</sup>

## SECTION

- 13-201. Findings of city council.
- 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 orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.

13-201. Findings of city council. Pursuant to Tennessee Code Annotated § 13-21-101 et seq., the city council finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

13-202. Definitions. (1) "Municipality" shall mean the City of Winchester, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

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

(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 § 13-21-101 et seq.

(4) "Public authority" shall mean the building inspector.

(5) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 13, chapter 21.

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

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

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

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

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall, upon the filing of the notice with the office of the register of deeds of Franklin 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 City of Winchester 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 Franklin 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 City of Winchester 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 City of Winchester, such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light,

or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness.

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

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

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

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

- (1) To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

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

## CHAPTER 3

JUNKYARDS

## SECTION

## 13-301. Junkyards.

13-301. Junkyards.<sup>1</sup> 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. (1983 Code, § 8-409)

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<sup>1</sup>State 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).

CHAPTER 4

ABANDONED OR JUNK VEHICLES

SECTION

13-401. Definitions.

13-402. Abandoned motor vehicles declared a public nuisance.

13-403. Removal of abandoned motor vehicles required.

13-404. Notification and authority.

13-405. Violations.

13-406. Vehicle disposal.

13-407. Return of vehicle to owner.

13-408. Valuable property.

13-401. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

(1) "Person." Any person, firm, organization, partnership, association corporation or company of any kind.

(2) "Vehicle." Any machine propelled by other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery, and shall include, without limitation, automobile, truck/trailer, motorcycle, tractor, recreation vehicle, golf carts, vehicle parts, boat, jet ski, or motor home.

(3) "Property." Any real property within the City of Winchester which is not a street or highway.

(4) "Shall." The word "shall" is always mandatory and not merely directory.

(5) "Antique." Any vehicle over 25 years old. (as added by Ord. #800, Jan. 2003)

13-402. Abandoned motor vehicles declared a public nuisance. In enacting this chapter, the Council of the City of Winchester finds and declares that the accumulation and storage of abandoned, wrecked, junked, partially dismantled or inoperative motor vehicles on public or private property in the City of Winchester are in the nature of rubbish and unsightly debris, violates, in many instances, the zoning regulations of the city and constitutes a nuisance detrimental to the health, safety, and welfare of the community in that, such conditions tend to interfere with the enjoyment of and reduce the value of public and private property and create fire hazards and other safety and health hazards to the citizens of the City of Winchester. (as added by Ord. #800, Jan. 2003)

13-403. Removal of abandoned motor vehicles required. The accumulation and storage of one or more such motor vehicles in violation of the



provisions of this chapter shall constitute rubbish and unsightly debris and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the City of Winchester, and it shall be the duty of the registered owner of such motor vehicle and it shall also be the duty of the person in charge or control of the property upon which such motor vehicle is located whether owner, tenant, occupant, lessee, or otherwise, to remove the same to a place of lawful storage or to have the vehicle housed within a building where it will not be visible from the street. If a building is not available, said vehicle shall be limited to one per residential property owner and said vehicle will be parked on a gravel, paved, or concrete surface on fully inflated tires with all windows, doors, and lids intact and locked for safety purposes. Said vehicle shall not be leaking any fluids. Commercial property owners, excluding licensed junkyards, with multiple abandoned, wrecked, inoperable vehicles shall keep said vehicles in a secured storage area with a gravel or paved surface out of public view. (as added by Ord. #800, Jan. 2003)

13-404. Notification and authority. Whenever any such public nuisance exists on occupied or unoccupied commercial or residential, private or public, property within the City of Winchester, the owner or owners of said property shall be notified by the chief of the department of inspection/codes enforcement or his authorized agent to abate or remove the same. Such order shall:

- (1) Be in writing;
- (2) Specify the public nuisance and its location;
- (3) Specify the corrective measures required; and
- (4) Provide for compliance within ten (10) days from the date of notification.

The notification shall be served upon the owner or owners of said premises by serving them personally or by sending said notice by certified mail, return receipt requested, to their address as shown on the current tax rolls of the City of Winchester. If the owner or owners of the premises fail or refuse to comply with the order of the chief of the department of inspection/codes enforcement or his duly authorized agent within a ten (10) day period after notification thereof, as provided herein, such failure or refusal shall be deemed a violation of the provisions of this chapter and said owner or owners shall be subject to the penalties herein provided. If the owner or owners of the premises fail or refuse to comply with the order of the chief of the department of inspection/codes enforcement or his duly authorized agent within a ten (10) day period after notification thereof, as provided herein, the chief of the department of inspection/codes enforcement or his authorized agent may enter upon said property, take possession of such junk vehicle or vehicles, remove the same from said property, dispose of same, and cause such unlawful condition to be remedied. Upon completion of such removal and disposition, the reasonable costs thereof, and other incidental costs in connection therewith, shall be paid by the owner or owners of said property to the City of Winchester and said costs

shall be billed to the owner or owners of said property. If the bill is not fully paid within sixty (60) days after the mailing of said bill a 10% penalty shall be added, and said costs and penalties shall be placed on the tax roll of the City of Winchester as a lien upon the property and collected in the same manner as other city taxes are collected. (as added by Ord. #800, Jan. 2003)

13-405. Violations. Any person violating or interfering with the enforcement of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined under the general penalty clause for this municipal code. (as added by Ord. #800, Jan. 2003)

13-406. Vehicle disposal. If, after 15 days from the date of removal, the vehicle has not been claimed by its owner, the holder of the vehicle may dispose of such vehicle as provided by state law. (as added by Ord. #800, Jan. 2003)

13-407. Return of vehicle to owner. If return of vehicle is demanded by its owner during the time that it is being held, it will be returned where and as it sits after payment of all applicable fines, tow charges, and storage charges that apply to the vehicle. (as added by Ord. #800, Jan. 2003)

13-408. Valuable property. Any valuable property found in any abandoned vehicle removed subject to this code shall be stored by the City of Winchester until claimed by the owner of said property. If property is not claimed, said property shall be sold at public auction as determined by the city administrator with the proceeds of such auction accruing to the General Operating Fund of the City of Winchester. (as added by Ord. #800, Jan. 2003)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. REGULATION OF TRAILERS AND TRAILER COACH PARKS.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of six (6) members; one (1) member shall be the mayor or a person designated by the mayor; one (1) member shall be a member of the city council selected by the city council; the other four (4) members shall be appointed by the mayor. At least one (1) member of the planning commission, designated as a regional planning commission in § 14-103, shall reside within the regional area outside of the municipal boundaries served by the regional planning commission; provided, that at least two (2) members shall reside in this area whenever such area is greater than fifty percent (50%) of the entire regional area. Planning commission members shall be compensated at the rate of fifteen dollars (\$15.00) per meeting attended. The terms of the mayor or his designee and the member selected by the city council shall run concurrently with their terms of office. The terms of the four (4) members appointed by the mayor shall be for four (4) years each so that the term of one (1) member expires each year. The mayor, at the first regular meeting of the planning commission after the adoption of the provisions in this section, in order to carry out the provisions of this section, shall designate the expiration dates of the terms of the appointed members presently serving on the planning commission accordingly. 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. (1983 Code, § 11-101, as replaced by Ord. #940, March 2012, and Ord. #955, April 2013)

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. (1983 Code, § 11-102, as replaced by Ord. #940, March 2012)

14-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1983 Code, § 11-103, as replaced by Ord. #940, March 2012)

CHAPTER 2

ZONING ORDINANCE

SECTION

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

14-201. Land use to be governed by zoning ordinance. Land use within the City of Winchester shall be governed by Ordinance Number 506, titled "Zoning Ordinance, Winchester, Tennessee," and any amendments thereto.<sup>1</sup>

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<sup>1</sup>Ordinance No. 506, and any amendments thereto, are published as separate documents and are of record in the office of the city clerk.

## CHAPTER 3

REGULATION OF TRAILERS AND TRAILER COACH PARKS

## SECTION

- 14-301. Definitions.
- 14-302. License required.
- 14-303. License fees.
- 14-304. Application for license.
- 14-305. Enforcement.
- 14-306. Trailer coach park plan.
- 14-307. Location of trailer coach parks.
- 14-308. Water supply.
- 14-309. Dependent trailer coaches.
- 14-310. Sewage and refuse disposal.
- 14-311. Garbage receptacles.
- 14-312. [Deleted.]
- 14-313. Animals and pets.
- 14-314. Register of occupants.
- 14-315. Trailer locations.
- 14-316. Revocation of license.
- 14-317. Posting of license.

14-301. Definitions. As used in this chapter:

- (1) "License" means the permit required for trailer coach parks and single trailer coaches. Fees charges under the license requirement are for inspection and the administration of this chapter.
- (2) "Natural or artificial barrier" means any river, pond, canal, railroad, levee, embankment, fence or hedge.
- (3) "Park" means trailer coach park.
- (4) "Person" means any natural individual, firm, trust, partnership, association or corporation.
- (5) "Trailer coach park" means any plot of ground upon which two or more trailer coaches, occupied or unoccupied, for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.
- (6) "Individual trailer coach" means a single trailer coach located on a site outside a trailer coach park.
- (7) "Trailer coach space" means a plot of ground within a trailer coach park designated for the accommodation of one trailer coach.
- (8) "Dependent trailer coach" means a trailer coach which does not have a toilet and a bath or shower.
- (9) "Independent trailer coach" means a trailer coach that has a toilet and a bath or shower.

(10) "Independent trailer coach space" means a trailer coach space which has a sewer and water connections designated to accommodate the toilet and bath or shower contained in an independent trailer coach. (1983 Code, § 11-301)

14-302. License required. The following requirements for licenses shall apply to any trailer coach park, or individual trailer coach within the corporate limits of Winchester:

(1) Trailer coach parks. It shall be unlawful for any person to maintain or operate within the corporate limits of the city, any trailer coach park unless such person shall first obtain a license therefor. All trailer coach parks in existence upon the effective date of this chapter shall within ninety days thereafter obtain such license and in all other respects fully comply with the requirements of this chapter.

(2) Individual trailer coaches. It shall be unlawful for any person to maintain an individual trailer coach as a dwelling or for the owner of any property to let space for an individual trailer coach within the corporate limits of the city unless a license has been obtained therefor. It shall be the responsibility of the occupant of the trailer coach to secure the license. In the event that an individual trailer coach is moved from one location to another, a license must be secured for the trailer coach at the new location, irregardless of the time elapsed since the original license was issued. (1983 Code, § 11-302)

14-303. License fees. An annual license fee shall be required for trailer coach parks and individual trailer coaches as follows:

(1) Trailer coach parks. The annual license fee for trailer coach parks shall be \$15.00 for the park plus \$5.00 per trailer coach within the park at the time that the license is issued.

(2) Individual trailer coaches. The annual license fee for each trailer coach shall be \$5.00. The fee for transfer of the license because of change in ownership or occupancy shall be \$5.00. (1983 Code, § 11-303)

14-304. Application for license. (1) Trailer coach parks. Applications for a trailer coach park shall be filed with and issued by the city building inspector. Applications shall be in writing and signed by the applicant and shall contain the following:

(a) The name and address of the applicant.

(b) The location and legal description of the trailer coach park.

(c) A complete plan of the park showing compliance with section 14-305 of this chapter.

(d) Plans and specifications of all buildings and other improvements constructed or to be constructed within the trailer coach park.

(e) Such further information as may be required by the City of Winchester to enable it to determine if the proposed park will comply with legal requirements.

The applications and all accompanying plans and specifications shall be filed in triplicate.

(2) Individual trailer coaches. Application for individual trailer coach licenses shall be filed with and issued by the city building inspector. Applications shall be in writing and signed by the applicant and shall contain the following:

(a) The name of the applicant and all people who are to reside in the trailer coach.

(b) The location and description of the trailer coach.

(c) The state license number, make, model year of each trailer coach and automobile owned by an occupant of the trailer coach.

(d) Further information as may be required by the City of Winchester to enable it to determine if the trailer coach and site will comply with legal requirements.

The application shall be filed in triplicate. (1983 Code, § 11-304)

14-305. Enforcement. A board of investigators consisting of the city health officer, the chief of the fire department, the chief of police, the building inspector and the planning commission chairman is hereby created, with the building inspector as chairman. The chairman shall, with the approval of the members of said board, appoint a secretary for the board from among the present employees of the city.

It is hereby made the duty of said board to enforce all provisions of this chapter as prescribed herein or such provisions as may be hereafter be enacted, and for the purpose of securing such enforcement, any of the above members of the board, or their duly authorized representatives, shall have the right and are hereby empowered to enter upon any premises on which any trailer coach or coaches are located, or are about to be located, and inspect the same and all trailer coaches and accommodations connected therewith at any reasonable time. The board is further empowered to issue orders granting, renewing, and revoking such permits and licenses as are provided for in accordance with the provisions of this chapter. (1983 Code, § 11-305)

14-306. Trailer coach park plan. The trailer coach park shall conform to the provisions of this code and other ordinances, rules and regulations pertinent to trailer coach parks. (1983 Code, § 11-306)



14-307. Location of trailer coach parks. Trailer coach parks may be located in any district permitted by the Winchester zoning ordinance.<sup>1</sup> Each boundary of the park must be at least 40 feet from any permanent residential building located outside the park unless separated therefrom by a natural or artificial barrier, or unless a majority of the property owners according to area within said 40 feet, consent in writing to the establishment of the park. (1983 Code, § 11-307)

14-308. Water supply. An adequate supply of pure water for drinking and domestic purposes shall be supplied to meet the requirements of the park or of the trailer coach located outside a park. The water supply shall be obtained from faucets only. No common drinking cups shall be permitted. Cold water supply faucets shall be located on each trailer coach space. An adequate supply of hot water shall be provided at all times in the service building for washing and laundry facilities. (1983 Code, § 11-308)

14-309. Dependent trailer coaches. Dependent trailer coaches as herein defined shall not be parked within the corporate limits of the City of Winchester unless they are located within a licensed trailer coach park as defined in this chapter, and unless the trailer coach park provides at least one flush toilet, one shower bath or tub and one lavatory for every ten dependent trailer coach spaces in the park.

All service buildings and the grounds of the park shall be maintained in a clean, sightly condition, and kept free from any conditions that will menace the health of any occupant or the public or constitute a nuisance. (1983 Code, § 11-309)

14-310. Sewage and refuse disposal. Wastes from toilets, slop sinks, and laundries shall be discharged into a public sewer system in compliance with applicable provisions of this code or into a private sewer and disposal plant or septic tank system of such construction and in such a manner as will present no health hazard.<sup>2</sup> All kitchen sinks, wash-basins, bath or shower tubs in any trailer coach harbored in any park may empty into a sanitary sink drain located on the trailer coach space. (1983 Code, § 11-310)

14-311. Garbage receptacles. A garbage can of a standard required by sections 17-101 of this code shall be provided for each trailer coach whether

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<sup>1</sup>The zoning ordinance and any amendments thereto, are published as separate documents and are of record in the office of the city clerk.

<sup>2</sup>Municipal code reference  
Water and sewer: title 18.

located inside or outside a trailer coach park. The garbage can and surrounding area shall be kept in a sanitary condition at all times.<sup>1</sup> (1983 Code, § 11-311)

14-312. Deleted. This section was deleted by Ord. #726, May 1998. (1983 Code, § 11-312, as deleted by Ord. #726, May 1998)

14-313. Animals and pets. No owner or person in charge of any dog, cat or other pet animal shall permit it to run at large or commit any nuisance within the limits of any trailer coach park.<sup>2</sup> (1983 Code, § 11-313)

14-314. Register of occupants. It shall be the duty of the licensee to keep a register containing a record of all trailer coach owners and occupants located within the park. The register shall contain the following information:

- (1) Name and address of each occupant.
- (2) The name of owner, make, model and year, and state license number, of all trailer coaches.
- (3) License number, name of owner, make, model, and year of each automobile by which the trailer is towed in addition to the same information for other automobiles belonging to occupants of trailer coaches within the park.
- (4) The dates of arrival and departure of each trailer coach. The park shall keep the register available for inspection at all times by law enforcement officers, public health officers and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three years following the date of registration. (1983 Code, § 11-314)

14-315. Trailer locations. It is hereby declared unlawful from and after the effective date of this chapter for more than one trailer as herein defined to park on any one lot within the corporate limits of Winchester other than in a trailer park licensed herein. This provision shall not apply to trailers now parked outside of a regular trailer park area but when moved, such trailers or other trailers may not relocate at the same site. (1983 Code, § 11-315)

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<sup>1</sup>Municipal code reference  
Water and sewers: title 17.

<sup>2</sup>Municipal code reference  
Animal control: title 10.

14-316. Revocation of license. The city may revoke any license to maintain and operate a park when the licensee fails to comply with any provision of this chapter and is found guilty by a court of competent jurisdiction of violating any provision of this chapter. After such conviction, the license may be reissued if the circumstances leading to conviction have been remedied and the park is being maintained and operated in full compliance with the law. (1983 Code, § 11-316)

14-317. Posting of license. (1) Trailer coach parks. The license certificate for a trailer coach park shall be posted near the front door in the office of or elsewhere in a conspicuous place on the premises of the trailer coach park at all times.

(2) Individual trailer coaches. The license certificate shall be conspicuously posted on or near the door of individual trailer coaches parked outside trailer coach parks. (1983 Code, § 11-317)

## TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING

## CHAPTER

1. GENERAL OPERATION AND RULES OF THE ROAD.
2. SPEED LIMITS.
3. INTERSECTIONS AND CROSSINGS (INCLUDING RAILROAD).
4. TURNING MOVEMENTS.
5. RESTRICTIONS, PROHIBITIONS ON USE OF STREETS BY CERTAIN VEHICLES.
6. EMERGENCY VEHICLES AND EQUIPMENT.
7. PEDESTRIANS.
8. PARKING, STOPPING AND STANDING.
9. PARKING METERS.
10. TRAFFIC CONTROL DEVICES, SIGNALS AND MARKINGS.
11. ADMINISTRATION AND ENFORCEMENT.
12. REGULATING MOTOR VEHICLE RACING.
13. REGULATING PARKING AND SETTING PARKING FINES FOR THE DOWNTOWN AREA.

## CHAPTER 1

GENERAL OPERATION AND RULES OF THE ROAD

## SECTION

- 15-101. Definitions.
- 15-102. License plates, registration certificate required for vehicles.
- 15-103. Vehicles to be equipped as prescribed by state law.
- 15-104. Operators to use reasonable care.
- 15-105. Reckless driving.
- 15-106. Operators to obey directions, signals, signs and devices.
- 15-107. Driving when alertness or ability is impaired.
- 15-108. Driving on right required; exceptions.
- 15-109. Driving while intoxicated or drugged.
- 15-110. Driving on sidewalks.
- 15-111. Driving through safety zone.
- 15-112. Driving across private, public property.
- 15-113. Backing.
- 15-114. Coasting.
- 15-115. Entry onto, exit from controlled access roadways.
- 15-116. Passing in opposite directions.
- 15-117. Overtaking another vehicle.
- 15-118. Vehicles being overtaken and passed.

- 15-119. Following too closely.
- 15-120. Driving in a procession.
- 15-121. Driving through authorized procession.
- 15-122. Unlawful riding.
- 15-123. Clinging to vehicles.
- 15-124. Boarding, alighting from moving vehicles.
- 15-125. Physicians' emblem.
- 15-126. Use of coasters and similar devices restricted.
- 15-127. Use of spotlights restricted.
- 15-128. Opening, closing of vehicle doors.
- 15-129. Occupancy of front seat restricted.
- 15-130. "Lap" driving prohibited.
- 15-131. Operation of dangerous, unsound vehicles prohibited.
- 15-132. Trains obstructing streets.
- 15-133. Applicability of title to public employees.
- 15-134. Applicability of title to animals, animal-drawn vehicles, pushcarts.
- 15-135. Violations.
- 15-136. One way streets and alleys.
- 15-137. Restricting direction of traffic during certain periods.
- 15-138. Motorcycles, bicycles, etc.

15-101. Definitions. The following words and phrases when used in this chapter shall for the purposes of said chapter have the meanings respectively ascribed to them in this section. Whenever any words and phrases used herein are not defined herein but are defined in the state laws regulating the operation of vehicles, any such definition therein shall be deemed to apply to such words and phrases used herein:

(1) "Authorized emergency vehicle." Fire department vehicles, police vehicles and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the chief of police.

(2) "Bicycle." Every device propelled by human power upon which any person may ride, having two tandem wheels either or which is more than twenty (20) inches in diameter.

(3) "Business district." The territory contiguous to and including a highway when within any six hundred (600) feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(4) "Central business district." All streets and portions of streets within the area designated on the zoning map of the city as C-1.

(5) "Commercial vehicle." Every vehicle designed, maintained or used primarily for the transportation of property.

(6) "Controlled-access highway." Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

(7) "Crosswalk."

(a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the travelable roadway.

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(8) "Curb loading zone." A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

(15) "Double parking." The standing of a vehicle alongside and parallel to another vehicle which is parked parallel with the curb or the standing of a vehicle at the rear of another vehicle which is parked at an angle with the curb.

(10) "Driver." Every person who drives or is in actual physical control of a vehicle.

(11) "Freight curb loading zone." A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight.

(12) "Highway." The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. The terms street and highway are synonymous and interchangeable.

(13) "Intersection."

(a) The area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway, shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.

(14) "Laned roadway." A roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

(15) "Motor vehicle." Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(16) "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.

(17) "Official time standard." Whenever certain hours are named herein they shall mean standard time or daylight-saving time as may be in current use in this city.

(18) "Official traffic-control devices." All signs, signals, markings and devices not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

(19) "Park, parking." The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers, or in obedience of traffic regulations.

(20) "Passenger curb loading zone." A place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

(21) "Pedestrian." Any person afoot.

(22) "Person." Every natural person, firm, copartnership, association or corporation.

(23) "Police officer." Every officer of the city police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(24) "Private road or driveway." Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(25) "Railroad." A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(26) "Railroad train." A steam engine, electric or other motor vehicle, with or without cars coupled thereto, operated upon rails, except streetcars.

(27) "Residence district." The territory contiguous to and including a highway not comprising a business district.

(28) "Right-of-way." The privilege of the immediate use of the roadway.

(29) "Roadway." That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways the term roadway as used herein shall refer to any such roadway separately but not to all such roadways collectively.

(30) "Safety zone." The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(31) "School hours." School hours are from forty (40) minutes prior to the opening of any school in the city on a school day until forty (40) minutes after the closing of any such school.

(32) "School patrol." School patrol members are those boys and/or girls designated by a school principal or a school teacher to assist in safeguarding school children when crossing the streets.

(33) "School zones." Streets adjacent to the grounds of schools and for a distance of fifty (50) feet beyond such grounds.

(34) "Sidewalk." That portion of a street between the curb lines or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(35) "Stand, standing." The halting of a vehicle, whether occupied or not, otherwise than for the purpose of, and while engaged in, receiving or discharging passengers.

(36) "Stop." When required means complete cessation of movement.

(37) "Stopping." When prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

(38) "Street, highway." The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for the purposes of vehicular travel. The terms "street" and "highway" are synonymous and interchangeable.

(39) "Streetcar." A car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality.

(40) "Through highway." Every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right-of-way to vehicles on such through highway in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this chapter.

(41) "Traffic." Pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

(42) "Traffic-control signal." Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(43) "Traffic division." The traffic division of the police department of this city. In the event a traffic division is not established, then said term whenever used herein shall be deemed to refer to the police department of this city.

(44) "Vehicle." Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moving by human power or used exclusively upon stationary rails or tracks. (1983 Code, § 9-101)



15-102. License plates, registration certificate required for vehicles.<sup>1</sup> Neither the operator nor the owner of any vehicle shall cause or permit such vehicle to be upon any street, alley, or other public place unless the license plates and registration certificate are attached, exhibited and/or maintained thereon or therein in conformity with state law. (1983 Code, § 9-102)

15-103. Vehicles to be equipped as prescribed by state law.<sup>2</sup> Neither the operator nor the owner of any vehicle shall cause or permit such vehicle to be operated upon any street, alley or other public place unless the vehicle is equipped and maintained with warning devices, lights, brakes, mufflers, windshield wipers, rear view mirrors, and other equipment in accordance with the provisions of state law. (1983 Code, § 9-103)

15-104. Operators to use reasonable care. The operator of a vehicle shall make every reasonable effort to start, stop, turn and otherwise operate and control such vehicle so as to avoid risk or injury to person or damage to property.

Before starting, turning, slowing or stopping a vehicle, the operator shall give a signal clearly indicating the movement contemplated. The signal shall be plainly visible to all persons who might be affected and given in ample time to give adequate warning to such persons. (1983 Code, § 9-104)

15-105. Reckless driving. It shall be unlawful and reckless driving for any person to drive any vehicle in willful or wanton disregard for the safety of persons or property. (1983 Code, § 9-105)

15-106. Operators to obey directions, signals, signs and devices. Drivers or operators of vehicles and pedestrians shall observe and obey all directions, orders and signals given by every official or other person lawfully engaged in directing or controlling traffic upon any street or other public place in this city, and shall likewise observe and comply with all signals, signs, guides and devices provided for in this chapter or lawfully installed or placed for the purpose of directing or controlling traffic and parking.

The direction or instruction of a police officer or other person lawfully directing traffic shall supersede the other provisions of this chapter regulating traffic. (1983 Code, § 9-106)

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<sup>1</sup>State law reference

Tennessee Code Annotated §§ 55-4-108 and 55-4-110.

<sup>2</sup>State law reference

Tennessee Code Annotated, title 55, chapter 9.

15-107. Driving when alertness or ability is impaired. No one shall drive a vehicle while his ability or alertness is so impaired through fatigue, illness or other cause that it is unsafe for him to drive a vehicle. No one shall require, or knowingly permit, an employee or anyone subject to his control, while in such a condition, to drive a vehicle. (1983 Code, § 9-107)

15-108. Driving on right required; exceptions. Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

- (1) When overtaking and passing under the rules governing such movement.
- (2) When the right half of a roadway is closed to traffic while under construction or repair.
- (3) Upon a roadway designated and signposted for one-way traffic.
- (4) When preparing for a left turn at an intersection or into a private road or driveway. (1983 Code, § 9-108)

15-109. Driving while intoxicated or drugged. (See Tennessee Code Annotated §§ 55-10-401, 55-10-303 and 55-10-307). (1983 Code, § 9-109)

15-110. Driving on sidewalks. The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway. (1983 Code, § 9-110)

15-111. Driving through safety zone. No vehicle shall at any time be driven through or within a safety zone. (1983 Code, § 9-111)

15-112. Driving across private, public property. No one shall drive a vehicle from a street or alley across premises on which a filling station, store or other business concern is located, or across public property for the sole purpose of passing from one street or alley to another. (1983 Code, § 9-112)

15-113. Backing. 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.

Before backing any vehicle, ample warning shall be given and due care exercised by the driver of such vehicle so as to avoid injuries to other vehicles or pedestrians. (1983 Code, § 9-113)

15-114. Coasting. No driver of a motor vehicle shall coast or operate such vehicle with the gears in neutral. (1983 Code, § 9-114)

15-115. Entry onto, exit from controlled access roadways. No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority. (1983 Code, § 9-115)

15-116. Passing in opposite directions. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways allowing for only one (1) lane of traffic in each direction each driver shall yield to the other at least one-half (1/2) of the main traveled portion of the roadway as nearly as possible. (1983 Code, § 9-116)

15-117. Overtaking another vehicle. (1) Passing to left. The operator of any vehicle overtaking another vehicle going in the same direction, shall pass at a safe distance to the left thereof, and shall not again drive to the right until entirely clear of such overtaken vehicle.

(2) Road to be clear of traffic. The operator of a vehicle shall not drive to the left side of the center line of a street in overtaking and passing another vehicle going in the same direction unless such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety.

(3) Crossings, intersections. The operator of a vehicle shall not overtake and pass another vehicle proceeding in the same direction at any railroad grade crossing nor at any intersection of streets or highways.

(4) Vehicles abreast. No driver shall pass or attempt to pass two (2) other vehicles abreast moving in the same direction.

(5) Pedestrians. No one shall drive a vehicle so as to pass another vehicle going in the same direction while a pedestrian is passing or is about to pass in front of either vehicle.

(6) Obstructed view. The driver of a vehicle shall not overtake and pass another vehicle proceeding in the same direction upon the crest of a grade or upon a curve in any road, street or highway where the driver's view along the road, street or highway is obstructed within a distance of three hundred (300) feet. (1983 Code, § 9-117)

15-118. Vehicles being overtaken and passed. The speed of a motor vehicle shall not be increased to prevent being overtaken by another vehicle attempting to pass.

The operator of a vehicle upon a highway or street about to be overtaken and passed by another vehicle approaching from the rear, shall give way to the right in favor of the overtaking vehicle on suitable signal being given by the driver of the overtaking vehicle, and shall not increase the speed of his vehicle until completely passed by the overtaken vehicle. (1983 Code, § 9-118)

15-119. Following too closely. The operator of a vehicle shall not follow another vehicle more closely than is reasonably safe and prudent, having due

regard for the speed of both vehicles and for other traffic and road conditions. (1983 Code, § 9-119)

15-120. Driving in a procession. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe. (1983 Code, § 9-120)

15-121. Driving through authorized procession. 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 as required in this chapter. (1983 Code, § 9-121)

15-122. Unlawful riding. No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise. (1983 Code, § 9-122)

15-123. Clinging to vehicles. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon the roadway. (1983 Code, § 9-123)

15-124. Boarding, alighting from moving vehicles. No person shall board or alight from any vehicle while such vehicle is in motion. (1983 Code, § 9-124)

15-125. Physicians' emblem. For the purpose of identification, physicians' cars may carry an emblem approved by the county medical society. No one other than a licensed physician shall use such emblem on a vehicle. (1983 Code, § 9-125)

15-126. Use of coasters and similar devices restricted. No person upon roller skates, skate boards, or riding in or by means of any coaster, toy vehicle or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by this chapter. (1983 Code, § 9-126)

15-127. Use of spotlights restricted. Spotlights shall not be used on vehicles except on emergency vehicles or vehicles owned by the city or by a public utility company or motor vehicles equipped for wrecker service. (1983 Code, § 9-127)

15-128. Opening, closing vehicle doors. No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. (1983 Code, § 9-128)

15-129. Occupancy of front seat restricted. No one shall drive or operate a vehicle if more than two (2) other people are on the front seat. (1983 Code, § 9-129)

15-130. "Lap" driving prohibited. While a vehicle is in motion, the operator thereof shall not have in his lap any other person, adult or minor, nor shall the operator be seated in the lap of another. (1983 Code, § 9-130)

15-131. Operation of dangerous, unsound vehicles prohibited. No person shall drive or operate a vehicle that is in such condition or is so constructed or loaded as to be likely to delay traffic or to injure persons or damage property. (1983 Code, § 9-131)

15-132. Trains obstructing streets. Neither the directing official nor the operator of any railway train, engine or car, shall direct or permit such train, engine or car to be operated or stopped in such manner as to prevent the use of a street for purposes of travel longer than five (5) minutes. (1983 Code, § 9-132)

15-133. Applicability of title to public employees.<sup>1</sup> The provisions of this title shall apply to the driver of any vehicle owned by or used in the service of the United States Government, any state or any political subdivision thereof, and it shall be unlawful for any said driver to violate any of the provisions of this title except as otherwise permitted in this chapter or by state statute. (1983 Code, § 9-133)

15-134. Applicability of title to animals, animal-drawn vehicles, pushcarts.<sup>2</sup> Every person propelling any pushcart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this title applicable to the driver of any vehicle, except those provisions which by their very nature can have no application. (1983 Code, § 9-134)

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<sup>1</sup>State law reference  
Tennessee Code Annotated § 55-8-106.

<sup>2</sup>State law reference  
Tennessee Code Annotated § 55-8-105.

15-135. Violations. It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this title. (1983 Code, § 9-135)

15-136. One way streets and alleys. The chief of police shall have the authority to designate one way streets and alleys. Whenever this code, any city ordinance, or the chief of police designates any one way street or alley the chief of police shall place and maintain signs giving notice thereof at every intersection where the movement of traffic in the opposite direction is prohibited. When the appropriate signs are erected, vehicular traffic shall move only in the indicated direction. (1983 Code, § 9-501)

15-137. Restricting direction of traffic during certain periods.

(1) Authority of chief of police. The chief of police is hereby authorized to determine and designate streets, parts of streets or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The chief of police may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

(2) Effect of regulation. It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this section. (1983 Code, § 9-502)

15-138. Motorcycles, bicycles, etc. (1) Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of this chapter and all other traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

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

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

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

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

(6) All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

(7) Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

(8) Every motorcycle and motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) (a) Lamps. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.

(b) Bell, horn. No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred (100) feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(c) Brake. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

(10) No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

(11) 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 bicycle, motorcycle or motor driven cycle in violation of this section. (1983 Code, §§ 9-701 through 9-707)

## CHAPTER 2

SPEED LIMITS<sup>1</sup>

## SECTION

15-201. Signs, signals to regulate speed.

15-202. Speed limits established.

15-203. Intersections.

15-204. School zones.

15-205. Playgrounds.

15-206. Congested areas.

15-201. Signs, signals to regulate speed. The chief of police is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speed slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof. (1983 Code, § 9-201)

15-202. Speed limits established. (1) Signs posted. It shall be unlawful for any person to operate or drive a motor vehicle upon any of the highways and streets of the city upon which signs to restrict speed have been erected, in excess of the maximum speed limit indicated by such sign.

(2) Signs not posted. It shall be unlawful for any person to operate or drive a motor vehicle upon any of the highways and streets of the city upon which signs to restrict speed have not been erected, in excess of thirty (30) miles per hour.

(3) Additional restrictions. The maximum speed limits prescribed in subsections (1) and (2) shall not apply at intersections, in school zones and congested areas where other maximum speed limits are prescribed. (1983 Code, § 9-202)

15-203. 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 through street or on one regulated by traffic-control signals or signs which stop or require traffic to yield on the intersecting streets. (1983 Code, § 9-203)

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<sup>1</sup>State law reference

Tennessee Code Annotated § 55-8-153.



15-204. School zones.<sup>1</sup> It shall be unlawful for any person to operate or drive a motor vehicle through any school zone at a speed in excess of the posted special speed limit when a warning flasher or flashers are also in operation.

Where there is no special speed limit established as provided for above, any person who drives or operates a motor vehicle at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers is in operation, or during a period of forty (40) minutes before the opening hours 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. (1983 Code, § 9-204)

15-205. Playgrounds. It shall be unlawful for any person to operate or drive a motor vehicle past any playground in excess of the posted speed limit when official signs indicating such speed limits have been posted by authority of the city. (1983 Code, § 9-205)

15-206. Congested areas. It shall be unlawful for any person to drive a motor vehicle through any congested area at a rate of speed in excess of the posted speed limit when such speed limit has been posted by authority of the city. (1983 Code, § 9-206)

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<sup>1</sup>State law reference

Tennessee Code Annotated § 55-8-152(e)(1).

## CHAPTER 3

INTERSECTIONS AND CROSSINGS (INCLUDING RAILROAD)

## SECTIONS

- 15-301. Placement of control signs at intersections.
- 15-302. Unmarked intersections.
- 15-303. Vehicles entering "stop" intersection.
- 15-304. Vehicles entering "yield" intersection.
- 15-305. Vehicles emerging from alleys, driveways or buildings.
- 15-306. Obstructed intersections.
- 15-307. Railroad crossings.
- 15-308. Through streets; duty of operator to stop.

15-301. Placement of control signs at intersections. The chief of police is hereby authorized to determine and designate intersections where particular hazards exist upon the streets and to determine:

(1) Whether vehicles shall stop at one or more entrances to any such intersection, in which event he shall cause to be erected a stop sign at every such place where a stop is required; or

(2) Whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection as prescribed in § 15-304(1), in which event he shall cause to be erected a yield sign at every place where obedience thereto is required. (1983 Code, § 9-301)

15-302. Unmarked intersections. The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection.

When two (2) vehicles enter an intersection at the same time, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

The operator of a vehicle intending to turn to the left shall yield the right-of-way to a vehicle approaching from the opposite direction, and may make such left turn only after a signal as required by law, and after affording a reasonable opportunity to the operator of the approaching vehicle to avoid a collision. (1983 Code, § 9-302)

15-303. Vehicles entering "stop" intersection. (1) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a "stop" intersection indicated by a "stop" sign shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

(2) Such driver after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on said highway as to constitute an immediate hazard, but said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield the right-of-way to the vehicle so proceeding. (1983 Code, § 9-303)

15-304. Vehicle entering "yield" intersection. (1) The driver of a vehicle approaching a "yield" sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary, and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said driver having so yielded may proceed, and the drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding; provided however, that a driver who enters a "yield" intersection without stopping and has or causes a collision with a pedestrian in a crosswalk or a vehicle in the intersection shall prima facie be considered not to have yielded as required herein. The foregoing shall not relieve the drivers of other vehicles approaching the intersection at such distance as not to constitute an immediate hazard from the duty to drive with due care to avoid a collision.

(2) The driver of a vehicle approaching a "yield" sign if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. (1983 Code, § 9-304)

15-305. Vehicle emerging from alleys, driveways or buildings. The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway. (1983 Code, § 9-305)

15-306. Obstructed intersections. No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. (1983 Code, § 9-306)

15-307. Railroad crossings. (1) Stop required. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the

circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(b) A crossing gate is lowered or when a flagman gives or continues to give a signal of the approach or passage of a railroad train;

(c) A railroad train approaching within approximately fifteen hundred (1,500) feet of the highway crossing emits a signal audible from such distance and such railroad train, which by reason of its speed or nearness to such crossing, is an immediate hazard.

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

(2) Driving under or around barrier. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. (1983 Code, § 9-307)

15-308. Through streets; duty of operator to stop. Whenever this code or any ordinance of the city designates and describes a through street it shall be the duty of the chief of police to place and maintain a stop sign, or on the basis of an engineering and traffic investigation at any intersection a yield sign, on each and every street intersection on such through street unless traffic at any such intersection is controlled at all times by traffic-control signals; provided however, that at the intersection of two (2) such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of said streets as may be determined by the chief of police upon the basis of an engineering and traffic study.

When appropriate signs have been erected by the chief of police designating a particular street or streets as through streets, operators of vehicles shall bring such vehicles to a complete stop before entering such through streets. (1983 Code, § 9-308)

## CHAPTER 4

TURNING MOVEMENTS

## SECTION

- 15-401. Turning at intersections.
- 15-402. Signals by vehicle operators.
- 15-403. Markers, buttons, signs at intersections.
- 15-404. No-turn signs.
- 15-405. "U" turns prohibited.

15-401. Turning at intersections. The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) 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.

(2) 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 such center line where it enters the intersection. After entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) Left turns on the other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) 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. (1983 Code, § 9-401)

15-402. Signals by vehicle operators. (1) Required. Every driver who intends to start, stop or turn, or partly turn from a direct line, shall first see that such movement can be made in safety and whenever the operation of any other vehicle may be affected by such movement shall give a signal either by means of the hand and arm or by some mechanical or electrical device approved by the state department of safety.<sup>1</sup>

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<sup>1</sup>State law reference

Tennessee Code Annotated §§ 55-8-143 and 55-8-144.

(2) Hand, arm signals. Whenever the signal is given by means of the hand and arm, the driver shall indicate his intention to start, stop or turn, or partly turn, by extending the hand and arm from and beyond the left side of the vehicle, in the following manner:

(a) For a left turn, or the pull to the left, the arm shall be extended in a horizontal position straight from and level with the shoulder.

(b) For a right turn, or the pull to the right, the arm shall be extended upward.

(c) For slowing down or the stop, the arm shall be extended downward.

(3) Distance from which signal must be given. The signals required by this section shall be given continuously for a distance of at least fifty (50) feet before stopping, turning, partly turning or materially altering the course of a vehicle.

(4) Change of signals. Drivers having once given a signal must continue the course thus indicated unless they alter the original signal and take care that other drivers and pedestrians have seen and are aware of the change.

(5) Other vehicles. Drivers receiving a signal from another driver shall keep their vehicles under complete control so as to be able to avoid an accident resulting from a misunderstanding of such signal. (1983 Code, § 9-402)

15-403. Markers, buttons, signs at intersections.<sup>1</sup> (1) Placement. The chief of police is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.

(2) Obedience required. When authorized markers, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications. (1983 Code, § 9-403)

15-404. No-turn signs. Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such sign. (1983 Code, § 9-404)

15-405. "U" turns prohibited. No driver of a motor vehicle shall make a "U" turn upon any street of the city. (1983 Code, § 9-405)

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<sup>1</sup>State law reference

Tennessee Code Annotated § 55-8-140(4).

## CHAPTER 5

RESTRICTIONS, PROHIBITIONS ON USE OF STREETS  
BY CERTAIN VEHICLES

## SECTION

- 15-501. Chief of police may prohibit certain vehicles from certain streets.
- 15-502. Height, width restrictions for vehicles.
- 15-503. Maximum width of load on passenger vehicles.
- 15-504. Flags, lights at end of projecting load.
- 15-505. Load restrictions upon vehicles using certain streets.
- 15-506. Commercial vehicles prohibited from using certain streets.
- 15-507. Truck routes designated.
- 15-508. Operation of tractors.
- 15-509. Operation of advertising vehicles in business district.

15-501. Chief of police may prohibit certain vehicles from certain streets.

(1) The chief of police is hereby authorized to determine and designate those heavily traveled streets upon which shall be prohibited the use of the roadway by motor-driven cycles, bicycles, horsedrawn vehicles or other non-motorized traffic and shall erect appropriate signs giving notice thereof. (2) When signs are so erected giving notice thereof, no person shall disobey the restrictions stated on such signs. (1983 Code, § 9-601)

15-502. Height, width restrictions for vehicles. It shall be unlawful for any person to operate upon any street or alley of the city any vehicle which with its load exceeds ten (10) feet in width or sixteen (16) feet in height, unless he shall first obtain a permit from the chief of police. The chief shall issue such a permit only upon a written application which reasonably establishes that such an operation can and probably will be accomplished without injury or damage to any person or property. The application must be submitted at least three (3) days in advance of the contemplated operation, must be in such form as prescribed by the chief of police, and must be accompanied by an indemnity bond in the amount of one thousand dollars (\$1,000.00), which indemnity bond shall inure to the benefit of any person who suffers personal injury or property damage as a result of such vehicle's operation and for which the permittee is found to be liable. (1983 Code, § 9-602)

15-503. Maximum width of load on passenger vehicles. No passenger vehicle shall be used for carrying any load extending beyond the left extremity of such vehicle nor extending more than six (6) inches beyond the right extremity thereof. (1983 Code, § 9-603)

15-504. Flags, lights at end of projecting load. Whenever the load of any vehicle is extended more than four (4) feet beyond the rear of the bed or body thereof, the vehicle operator shall see that there is displayed at the end of such load, in such position as to be clearly visible at all times from the rear of such vehicle, a red flag not less than twelve (12) inches in width and length.

Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise there shall be displayed at the end of such load a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1983 Code, § 9-604)

15-505. Load restrictions upon vehicles using certain streets. When signs are erected giving notice hereof, no person shall operate any vehicle with a gross weight in excess of the weight so posted at any time upon any of the streets or parts of streets affected by such signs. (1983 Code, § 9-605)

15-506. Commercial vehicles prohibited from using certain streets. When signs are erected giving notice hereof, no person shall operate any commercial vehicle exceeding the posted weight at any time upon any of the streets or parts of streets where such signs are posted, except that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding therefrom no farther than the nearest intersection thereafter. (1983 Code, § 9-606)

15-507. Truck routes designated. All motor vehicles which are reasonably described as "trucks", including but not limited to pick-up trucks, tank trucks, dump trucks, trailer trucks, trucks of the Armed Forces (state and federal), and special purpose trucks, shall observe and follow marked truck routes while traveling in or through the city. When signs designating truck routes are erected it shall be a misdemeanor for any person to drive, park or tow any vehicle described herein on any street, alley or highway not marked as a truck route unless the person has legal and reasonable business which reasonably necessitates his using such vehicle on such unauthorized street, alley or highway. (1983 Code, § 9-607)

15-508. Operation of tractors. No one shall drive or operate a tractor upon a street, pavement or sidewalk unless the wheels are properly equipped with rubber tires or otherwise so protected that the street, highway or pavements will not be damaged. (1983 Code, § 9-608)

15-509. Operation of advertising vehicles in business district. Vehicles used primarily for advertising purposes, and displaying either posters or placards, or displaying for public inspection any article for sale, or for the inspection of the public, shall not stop in the business district, but shall move



continuously at a rate of speed exceeding ten (10) miles per hour, except when stopped by a traffic officer or by a traffic-control signal or upon the approach of an emergency vehicle. (1983 Code, § 9-609)

## CHAPTER 6

EMERGENCY VEHICLES AND EQUIPMENT

## SECTION

- 15-601. Authority of operator of emergency vehicles.  
 15-602. Approach of authorized emergency vehicles.  
 15-603. Following fire apparatus; approaching fires.  
 15-604. Crossing fire hose.  
 15-605. Ambulance drivers responding to automobile accident calls required to obtain police clearance.

15-601. Authority of operator of emergency vehicles. (1) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

- (2) The driver of an authorized emergency vehicle may:
- (a) Park or stand, irrespective of the provisions of this title.
  - (b) Proceed past a red stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
  - (c) Exceed the maximum speed limits so long as he does not endanger life or property;
  - (d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any said vehicle while in motion sounds such audible signal by bell, siren or exhaust whistle as may be reasonably necessary, 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.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1983 Code, § 9-801)

15-602. Approach of authorized emergency vehicles. (1) Duty of vehicle operator. Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way

and 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. (1983 Code, § 9-802)

15-603. Following fire apparatus; approaching fire. The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1983 Code, § 9-803)

15-604. Crossing fire hose. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command. (1983 Code, § 9-804)

15-605. Ambulance drivers responding to automobile accident calls required to obtain police clearance. It shall be unlawful for any ambulance driver or operator in the City of Winchester to respond to any automobile accident call without first obtaining clearance from the Winchester Police Department. (1983 Code, § 9-805)

## CHAPTER 7

PEDESTRIANS

## SECTION

- 15-701. Subject to traffic-control signals.
- 15-702. Right-of-way in crosswalks.
- 15-703. Congregating on streets.
- 15-704. "Jaywalking" prohibited.
- 15-705. When pedestrian does not have right-of-way.
- 15-706. Certain crossings prohibited.
- 15-707. Obedience to railroad signals.
- 15-708. Walking along roadways.
- 15-709. Soliciting rides or business.
- 15-710. Drivers to exercise due care.

15-701. Subject to traffic-control signals. Pedestrians shall be subject to traffic-control signals as here declared in §§ 15-1006 and 15-1007 of this title, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this article. (1983 Code, § 9-901)

15-702. Right-of-way in crosswalks. (1) Duty of vehicle operator. When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(2) Duty of pedestrian. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(3) Approaching vehicles. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks. (1983 Code, § 9-902)

15-703. Congregating on streets. People shall not congregate on a street, street corner, or sidewalk so as to interfere with the progress of either vehicular or pedestrian traffic. (1983 Code, § 9-903)

15-704. "Jaywalking" prohibited. No pedestrians shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest

route to the opposite curb except in a crosswalk. However, at intersections where traffic-control signals have traffic stopped in all directions these provisions shall not apply to pedestrians crossing within the area common to both intersecting roadways. (1983 Code, § 9-904)

15-705. When pedestrian does not have right-of-way. (1) Every pedestrian crossing a roadway at any point other than within a marked or unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(2) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(3) The foregoing rules in this section have no application under the conditions stated in § 15-706 below when pedestrians are prohibited from crossing at certain designated places. (1983 Code, § 9-905)

15-706. Certain crossings prohibited. (1) Adjacent intersections with traffic signals. Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.

(2) Business district. No pedestrian shall cross a roadway other than in a crosswalk in any business district. (1983 Code, § 9-906)

15-707. Obedience to railroad signals. No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such grate or barrier is closed or is being opened or closed. (1983 Code, § 9-907)

15-708. Walking along roadways. (1) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(2) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction. (1983 Code, § 9-908)

15-709. Soliciting rides or business. (1) No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.

(2) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway. (1983 Code, § 9-909)

15-710. Drivers to exercise due care. Notwithstanding the foregoing provisions of this article every driver of a vehicle shall exercise due care to avoid

colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (1983 Code, § 9-910)

## CHAPTER 8

PARKING, STOPPING AND STANDING

## SECTION

- 15-801. Parking signs required.
- 15-802. Parallel parking on right-hand side required unless otherwise indicated.
- 15-803. Angle parking - permitted where chief of police designates; limitation.
- 15-804. Use of lamps on parked vehicles.
- 15-805. Parking lights for non-motor vehicles.
- 15-806. Parking, standing of unattended vehicles.
- 15-807. Parking, standing of trailers.
- 15-808. Removal of unlawfully parked vehicles.
- 15-809. Responsibility for illegal parking.
- 15-810. Stopping, standing, parking prohibited - signs not required.
- 15-811. Parking not to obstruct vehicular traffic.
- 15-812. "No parking" zones.
- 15-813. One way roadways; parking, standing on left hand side regulated.
- 15-814. Chief of police may prohibit parking on narrow streets.
- 15-815. Parking in alleys regulated.
- 15-816. Chief of police may regulate standing, parking on one-way streets.
- 15-817. Chief of police may regulate parking adjacent to schools.
- 15-818. Chief of police may prohibit stopping, standing, parking near hazardous or congested place.
- 15-819. Chief of police authorized to establish the hours of permitted or prohibited parking.
- 15-820. Parking vehicle for display; repairs prohibited.
- 15-821. Chief of police to designate public carrier stops, stands.
- 15-822. Stopping, standing, parking of buses, and taxicabs.
- 15-823. Use of bus, taxicab stands.
- 15-824. Chief of police to designate passenger, freight curbside loading zones.
- 15-825. Use of passenger curbside loading zones.
- 15-826. Use of freight curbside loading zones.
- 15-827. Permits for loading, unloading.

15-801. Parking signs required. Whenever by this code or any other ordinance of this city any parking time limit is imposed or parking is prohibited on designated streets it shall be the duty of the chief of police to erect appropriate signs giving notice thereof and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense except as otherwise provided in § 15-810. (1983 Code, § 9-1001)

15-802. Parallel parking on right-hand side required unless otherwise indicated. Except as otherwise provided in this chapter every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right hand wheels of such vehicle parallel to and within eighteen (18) inches of the right hand curb. (1983 Code, § 9-1002)

15-803. Angle parking - permitted where chief of police designates; limitation. (1) Authority of chief of police. The chief of police shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets but such angle parking shall not be indicated upon any federal-aid or state highway within this city unless the state department of highways and public works has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(2) Limitation. Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street.

(3) Restrictions. On those streets which have been signed or marked by the chief of police for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings. (1983 Code, § 9-1003)

15-804. Use of lamps on parked vehicles. Any lighted head lamps upon a parked vehicle shall be depressed or dimmed. (1983 Code, § 9-1004)

15-805. Parking lights for non-motor vehicles. Every non-motor vehicle operating or standing in the streets shall, being parked as required herein, during the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise, and at any other time when there is not sufficient light to render clearly discernible any person on the highway at a distance of two hundred (200) feet, be equipped with a light visible from both the front and rear of such vehicle. This light shall be on the side of the vehicle that is nearest to the center of the street. (1983 Code, § 9-1005)

15-806. Parking, standing of unattended vehicles. No person having control or charge of a motor vehicle shall allow such vehicle to stand on any street unattended without first efficiently setting the brakes, locking the ignition, and, when left standing upon any grade, turning the wheels of such vehicle toward the curb. (1983 Code, § 9-1006)

15-807. Parking, standing of trailers. No trailer shall be parked or left standing on any sidewalk, street, alley, or other public place within the business district unless such trailer is attached or fastened to a tractor, truck, automobile, or other motor vehicle with sufficient motive power to easily and quickly move and haul it away. (1983 Code, § 9-1007)



15-808. Removal of unlawfully parked vehicles. Any member of the police department or fire department is authorized to move vehicles unlawfully parked, either by the use of wrecker service or by propelling the vehicle under its own power or by pushing the same with another vehicle or by other power. Any expense incurred for moving the vehicle shall be charged to its owner. (1983 Code, § 9-1008)

15-809. Responsibility for illegal parking. Whenever a person is arrested for the violation of a parking rule or regulation of the city, proof of the registration of the motor-propelled vehicle involved in the name of the person shall be prima facie evidence of the ownership of such motor-propelled vehicle by the person in whose name the vehicle is registered. This proof of registration shall likewise be prima facie evidence that said motor vehicle was parked by the owner. (1983 Code, § 9-1009)

15-810. Stopping, standing, parking prohibited - signs not required.

(1) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

- (a) On a sidewalk.
- (b) In front of a public or private driveway.
- (c) Within an intersection.
- (d) Within fifteen (15) feet of a fire hydrant.
- (e) On a crosswalk.
- (f) Within twenty (20) feet of a crosswalk at an intersection.
- (g) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of the roadway.
- (h) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the chief of police indicates a different length by signs or markings.
- (i) Within fifty (50) feet or the nearest rail of a railroad crossing.
- (j) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance.
- (k) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.
- (l) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (m) Upon any bridge or other elevated structure upon a highway, or within a highway tunnel.

(n) At any place where officials signs prohibit stopping.

(o) On a sidewalk, sidewalk space or footpath used by pedestrians.

(p) On any street or alley where, on account of its width or on account of a previously parked vehicle or other obstruction, such stopping or parking would interfere with the free and easy passage of other vehicles through such street or alley.

(q) (1) In a "no parking" zone;

(2) In a bus stop, except buses;

(3) In a taxi stand, except taxis for which it is reserved.

(4) In a loading zone, except vehicles while engaged in delivering or receiving merchandise.

(2) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful. (1983 Code, § 9-1010)

15-811. Parking not to obstruct vehicular traffic. No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic. (1983 Code, § 9-1011)

15-812. "No parking" zones. The chief of police is authorized to designate "no parking" zones or spaces on either side of streets in the city. These shall be located for public convenience and to aid traffic conditions. Vehicles shall not be parked in places so designated by signs or other devices. (1983 Code, § 9-1012)

15-813. One-way roadways; parking, standing on left hand side regulated. In the event a highway includes two (2) or more separate roadways and traffic is restricted to one (1) direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to permit such standing or parking. The chief of police is authorized to determine when standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof. (1983 Code, § 9-1013)

15-814. Chief of police may prohibit parking on narrow streets.

(1) Authority. The chief of police is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty (20) feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed thirty (30) feet.

(2) Signs required. When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign. (1983 Code, § 9-1014)

15-815. Parking in alleys regulated. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property. (1983 Code, § 9-1015)

15-816. Chief of police may regulate standing, parking on one-way streets. The chief of police is authorized to erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles, and when such signs are in place, no person shall stand or park a vehicle upon such left-hand side in violation of any such sign. (1983 Code, § 9-1016)

15-817. Chief of police may regulate parking adjacent to schools.

(1) Authority. The chief of police is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

(2) Signs required. When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place. (1983 Code, § 9-1017)

15-818. Chief of police may prohibit stopping, standing, parking near hazardous or congested places. (1) Authority. The chief of police is hereby authorized to determine and designate by proper signs places not exceeding one hundred (100) feet apart in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(2) Signs required. When official signs are erected at hazardous or congested places as authorized herein no person shall stop, stand or park a vehicle in any such designated place. (1983 Code, § 9-1018)

15-819. Chief of police authorized to establish the hours of permitted or prohibited parking. The chief of police shall be authorized to erect signs establishing the hours during which parking may be prohibited or permitted, and time limits for parking. When such signs are erected, no person shall park a vehicle for a period of time longer than specified on the sign, nor during the hours prohibited by such sign, on any day except Sunday and public holidays, on any of the streets or parts of streets where such signs are erected. (1983 Code, § 9-1019)

15-820. Parking vehicle for display; repairs prohibited. No person shall park a vehicle upon a roadway for the principal purpose of:

- (1) Displaying such vehicle for sale.
- (2) Washing, greasing, or repairing such vehicle except repairs necessitated by an emergency. (1983 Code, § 9-1020)

15-821. Chief of police to designate public carrier stops, stands. The chief of police is hereby authorized and required to establish bus stops, bus stands, taxicab stands and stands for other passenger common-carrier motor vehicles on such public streets in such places and in such manner as he shall determine to be of the greatest benefit and convenience to the public, subject to the limitations imposed by 9-303 and 9-304 of this code,<sup>1</sup> and every such bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs. (1983 Code, § 9-1021)

15-822. Stopping, standing, parking of buses, and taxicabs.<sup>2</sup>

(1) Buses.

(a) Bus stands: The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.

(b) Passenger loading zones, bus stops: The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their luggage other than at a bus stop, bus stand or passenger loading zone so designated as provided herein, except in case of an emergency.

(c) Entry into bus stops, bus stands, passenger zones: The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen (18) inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(2) Taxicabs. The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers. (1983 Code, § 9-1022)

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<sup>1</sup>Municipal code reference  
Vehicles for hire: title 9, chapter 3.

<sup>2</sup>Municipal code reference  
Vehicles for hire: title 9, chapter 3.

15-823. Use of bus, taxicab stands. No person shall stop, stand or park a vehicle other than a bus in a bus stop or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone. (1983 Code, § 9-1023)

15-824. Chief of police to designate passenger, freight curbs loading zones. The chief of police is hereby authorized to determine the location of passenger and freight curbs loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable. (1983 Code, § 9-1024)

15-825. Use of passenger curbs loading zones. No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curbs loading zone during hours when the regulations applicable to such curbs loading zone are effective, and then only for a period not to exceed three (3) minutes. (1983 Code, § 9-1025)

15-826. Use of freight curbs loading zones. (1) Vehicles generally. No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curbs loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty (30) minutes.

(2) Passenger vehicles. The driver of a passenger vehicle may stop temporarily at a place marked as a freight curbs loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter such zone. (1983 Code, § 9-1026)

15-827. Permits for loading, unloading. (1) Authorized; conditions. The chief of police is authorized to issue special permits to permit the backing of a vehicle to the curbs for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permit may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized.

(2) Violation of permit prohibited. It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit. (1983 Code, § 9-1027)

## CHAPTER 9

PARKING METERS

## SECTION

- 15-901. Applicability of chapter.
- 15-902. Chief of police authorized to designate parking meter zones.
- 15-903. Designation of meter space; installation of meters.
- 15-904. Parking within meter spaces.
- 15-905. Hours of operation designated.
- 15-906. Use of slugs prohibited.
- 15-907. Tampering with meters prohibited.

15-901. Applicability of chapter. Nothing contained in this chapter shall be construed to permit parking of vehicles in a parking meter zone when, by other provisions of this code, such parking is prohibited. (1983 Code, § 9-1101)

15-902. Chief of police authorized to designate parking meter zones. The chief of police shall be authorized to designate parking meter zones within the city, subject to approval of the city council. (1983 Code, § 9-1102)

15-903. Designation of meter spaces; installation of meters. In the designated parking meter zones, except in front of alleys, garage entrances, filling station entrances, the fire department, and officially designated loading and unloading zones, the police department shall cause parking spaces approximately twenty-two (22) feet in length to be marked by lines on the street or sidewalk, or by other appropriate means. At the side or end of each designated space the police department shall install a parking meter or device, which, upon the deposit of a proper coin in accordance with the instructions on the meter will indicate the duration and expiration of the legal parking period in accordance with the legend on such meter. (1983 Code, § 9-1103)

15-904. Parking within meter spaces. It shall be unlawful to park any vehicle across any line or marking designating a parking meter space, or to park such vehicle in any way that the same shall not be wholly within the parking space as designated by such lines or markings. (1983 Code, § 9-1104)

15-905. Hours of operation designated. (1) Daily. Monday through Friday, between the hours of 7:00 a.m. and 6:00 p.m. and Saturday between the hours of 7:00 a.m. and 8:00 p.m., it shall be unlawful for the owner or operator of any vehicle to leave such vehicle standing in a parking meter space when the parking meter for such space indicates that the lawful parking period has elapsed.

(2) Sundays, holidays, other exceptions. Parking meter spaces may be used without charge on Sundays, national holidays when business houses are closed, and on other days specially designated by the police committee or the city council.

(3) Loading, unloading. Vehicles actually being loaded or unloaded may be parked in parking meter spaces without charge for a period not to exceed ten (10) minutes.

(4) Official use. Official federal, state, county and city vehicles, while in use on official business, may be parked in parking meter spaces without charge. (1983 Code, § 9-1105)

15-906. Use of slugs prohibited. It shall be unlawful to deposit or cause to be deposited in a parking meter a metal slug or other substitute for a coin of the United States. (1983 Code, § 9-1106)

15-907. Tampering with meters prohibited. It shall be unlawful for any person to deface, tamper with, damage, open or wilfully break, destroy or impair the usefulness of a parking meter. (1983 Code, § 9-1107)



## CHAPTER 10

TRAFFIC CONTROL DEVICES, SIGNALS, AND MARKINGS

## SECTION

- 15-1001. Standard to which traffic control devices, signs and markings should conform.
- 15-1002. Chief of police to install, maintain traffic-control devices.
- 15-1003. Drivers to obey traffic-control devices, signs and markings.
- 15-1004. Presumption with respect to traffic-control signs, etc.
- 15-1005. Placement of signs, devices and markings.
- 15-1006. Traffic-control signal legend.
- 15-1007. Pedestrian control signal legend.
- 15-1008. Display of unauthorized signs, signals and markings.
- 15-1009. Interference with traffic-control devices, railroad signs and signals prohibited.
- 15-1010. Chief of police to designate crosswalk, safety zones.
- 15-1011. Chief of police to establish play street; traffic restricted.
- 15-1012. Chief of police to mark traffic lanes; operators required to obey markings.

15-1001. Standard to which traffic control devices, signs and markings should conform. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,<sup>1</sup> published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the municipality. This section shall not be construed as being mandatory but is merely directive. (1983 Code, § 9-1201)

15-1002. Chief of police to install, maintain traffic-control devices. The chief of police shall place and maintain traffic-control signs, signals and devices when and as required under the traffic laws of the city to make effective the provisions of said laws, and may place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic under the traffic laws of this city or under state law or to guide or warn traffic, subject to approval of city council. (1983 Code, § 9-1202)

15-1003. Drivers to obey traffic-control devices, signs and markings. The driver of any vehicle shall obey the instructions of any official traffic-control

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

device, sign or marking applicable thereto placed in accordance with the provisions of this title, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an emergency vehicle in this title. (1983 Code, § 9-1203)

15-1004. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings, and devices are hereby expressly authorized, ratified, approved, and made official. (1983 Code, § 9-1204)

9-1005. Placement of signs, devices and markings. No provisions of this title for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently eligible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place. (1983 Code, § 9-1205)

15-1006. Traffic-control signal legend. Whenever traffic is controlled by traffic-control signals, exhibiting the words "Go," "Caution" or "stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and said terms and lights shall indicate and 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 city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn 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 municipality at intersections which the city decides require no right turns on red in the interest of traffic safety.

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

(4) Steady red with green arrow:

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

(b) Pedestrians facing such signal shall not enter the roadway 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.

(6) At flashing traffic-control signals.

(a) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the municipality it shall require obedience by vehicular traffic as follows:

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

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

(b) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall

be governed by the rules set forth in § 15-307 of this title. (1983 Code, § 9-1206)

15-1007. Pedestrian-control signal legend. Whenever special pedestrian-control signals exhibiting the words "walk," "wait" or "don't walk" are in place such signals shall indicate 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, 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 a sidewalk or safety zone while the "wait" signal is showing. (1983 Code, § 9-1207)

15-1008. Display of unauthorized signs, signals, markings.

(1) Prohibited. No person shall place, maintain or display upon or in view of any highway an unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

(2) Commercial advertising. No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(3) Directional information. This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(4) Violation is a nuisance. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the city traffic engineer is hereby empowered to remove the same or cause it to be removed without notice. (1983 Code, § 9-1208)

15-1009. Interference with traffic-control devices, railroad signs and signals prohibited. No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof. (1983 Code, § 9-1209)

15-1010. Chief of police to designate crosswalk, safety zones. The chief of police is hereby authorized:

(1) Crosswalks. To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections

where in his opinion there is particular danger to pedestrians crossing the roadway, and at such places as he may deem necessary.

(2) Safety zones. To establish zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians. (1983 Code, § 9-1210)

15-1011. Chief of police to establish play streets; traffic restricted.

(1) Authority. The chief of police shall have authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

(2) Restriction on vehicular traffic. Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof. (1983 Code, § 9-1211)

15-1012. Chief of police to mark traffic lanes; operators required to obey markings. (1) Authority. The chief of police is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

(2) Operation of vehicles. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement. (1983 Code, § 9-1212)

## CHAPTER 11

ADMINISTRATION AND ENFORCEMENT

## SECTION

- 15-1101. Authority of police, fire department officials, school patrols.
- 15-1102. Obedience to orders of police, fire department officials, school patrols.
- 15-1103. City traffic engineer - office established and duties.
- 15-1104. Promulgation of regulations; testing traffic-control devices.
- 15-1105. Records of traffic violations.
- 15-1106. Accidents - duty of driver.
- 15-1107. Garages to make reports of damaged vehicles.
- 15-1108. Purposes, availability of accident reports.
- 15-1109. Records of drivers - purpose and maintenance.
- 15-1110. Records of traffic cases.
- 15-1111. Disposition of fines, forfeitures.
- 15-1112. Impounding of vehicles.
- 15-1113. Disposal of abandoned vehicles.
- 15-1114. Procedure in effecting traffic arrest.
- 15-1115. Forms, records of traffic citations and arrests.
- 15-1116. Traffic citations, warrants and complaints.
- 15-1117. Cancellation of citations.
- 15-1118. Audit of records and reports.
- 15-1119. Requirements of citation to be deemed a complaint.
- 15-1120. Violation of promise to appear prohibited.
- 15-1121. Illegal parking - issuance of citation.
- 15-1122. Failure to obey citation for illegal parking.
- 15-1123. Presumption as to registered owner of illegally parked vehicle.
- 15-1124. Issuance of warrant for arrest for illegally parked vehicle.

15-1101. Authority of police, fire department officials, school patrols.

(1) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of this city and all of the state vehicle laws applicable to street traffic in this city.

(2) Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(3) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic there or in the immediate vicinity.

(4) During the period of time on days when the public schools are in session members of school patrols, when wearing or displaying a badge, symbol or flag furnished or approved by the police department may halt traffic at street intersections and at crosswalks where school children are crossing or appear ready to or about to cross a street. (1983 Code, § 9-1301)

15-1102. Obedience to orders of police, fire department officials, school patrols. No person shall wilfully fail or refuse to comply with any lawful order or direction of a police officer, fire department official or school patrol member. (1983 Code, § 9-1302)

15-1103. City traffic engineer - office established and duties.

(1) Chief of police may serve. The office of city traffic engineer is hereby established. In the absence of a full-time traffic engineer the chief of police shall serve as city traffic engineer in addition to his other functions, and shall exercise the powers and duties with respect to traffic as provided in this chapter.

(2) Duties. It shall be the general duty of the city traffic engineer to determine the installation and proper timing and maintenance of traffic-control devices, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering investigation of traffic conditions, to plan the operation of traffic on the streets and highways of this city and to cooperate with other city officials in the development of ways and means to improve traffic conditions and to carry out the additional powers and duties imposed by ordinances of this city. (1983 Code, § 9-1303)

15-1104. Promulgation of regulations, testing traffic-control devices.

(1) Authority of chief of police and traffic engineer; limitation. The chief of police is hereby empowered to make regulations necessary to make effective the provisions of the traffic laws of this city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days.

(2) Authority of traffic engineer. The city traffic engineer may test traffic-control devices under actual conditions of traffic. (1983 Code, § 9-1304)

15-1105. Records of traffic violations. (1) Police department or traffic division. The police department or the traffic division thereof shall keep a record of all violations of the traffic laws of this city or of the state vehicle laws with which any person has been charged, together with a record of the final disposition of all such alleged offenses.

(2) Contents. Such record shall be so maintained as to show all types of violations and the total of each.

(3) To be five-year records. Said record shall accumulate during at least a five-year period and from that time on the record shall be maintained complete for at least the most recent five-year period.

(4) Records to be numbered. All forms for records of violations and notices of violations shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of all such forms.

(5) Records to be public. All such records and reports shall be public records. (1983 Code, § 9-1305)

15-1106. Accidents - duty of driver. (1) The operator of any vehicle involved in an accident resulting in injury or death to a person or damage to property shall stop his vehicle at the scene of the accident, give his name, address, driver's license number and the license number of his vehicle to the person injured, to the driver or occupants of any vehicle collided with and to the owner of any property damaged. He shall also render to anyone injured in the accident reasonable assistance and if possible shall deliver the injured person or persons to a physician if that appears advisable or if requested by an injured person.

(2) The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to an apparent extent of one hundred dollars (\$100) or more shall immediately by the quickest means of communication give notice of such accident to the police department if such accident occurs within this city.

(3) The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to or death of any persons or total property damage to an apparent extent of one hundred dollars (\$100) or more shall, within ten (10) days after such accident, forward a written report of such accident to the police department, or a copy of any report he is required to forward to the state. The provisions of this section shall not be applicable when the accident has been investigated at the scene by a police officer while such driver was present thereat.

(4) Whenever the driver of a vehicle is physically incapable of giving immediate notice of an accident as required above and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall give or cause to be given, the notice not given by the driver.

Whenever the driver is physically incapable of making a written report of an accident and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within ten (10) days after learning of the accident make such report not made by the driver. (1983 Code, § 9-1306)

15-1107. Garages to make reports of damaged vehicles. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident of which a report must



be made to the state or which has been struck by a bullet or otherwise apparently involved in violence shall report to the police department within twenty-four (24) hours after such motor vehicle is received, giving the engine number, registration number and the name and address of the owner or operator of such vehicle if known. (1983 Code, § 9-1307)

15-1108. Purposes, availability of accident reports.

(1) Purposes. All accident reports made by persons involved in accidents or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the police department or other governmental agencies having use for the records for accident prevention purposes, or for the administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the identity of a person involved in an accident may be disclosed when such identity is not otherwise known or when such person denies his presence at the accident.

(2) Confidentiality of report. All accident reports and supplemental information filed in connection with the administration of the laws of this state relating to the deposit of security or proof of financial responsibility shall be confidential and not open to general public inspection, nor shall copying of lists of such reports be permitted; except, however, that such reports and supplemental information may be examined by any person named therein or by his representative designated in writing.

(3) Admissibility in evidence. No reports or information mentioned in this section shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the police department shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department in compliance with law. (1983 Code, § 9-1308)

15-1109. Records of drivers - purpose and maintenance.

(1) Keeping system of records. The police department shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned.

(2) Study of records; purpose. The police department shall study the cases of all the drivers charged with frequent or serious violations of the traffic laws or involved in frequent traffic accidents or any serious accident, shall attempt to discover the reasons therefor, and shall take whatever steps are lawful and reasonable to prevent the same or to have the licenses of such persons suspended or revoked.

(3) To be five-year records. Such records shall accumulate during at least a five-year period and from that time on such records shall be maintained complete for at least the most recent five-year period. (1983 Code, § 9-1309)

15-1110. Record of traffic cases. (1) Duty of city clerk.<sup>1</sup> The city clerk shall keep or cause to be kept a record of every traffic complaint, traffic citation or other legal form of traffic charge deposited with or presented to the city court and shall keep a record of every official action by said court, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, and the amount of fine or forfeiture resulting from every said traffic complaint or citation deposited with or presented to said court.

(2) Duty of city judge. Within ten (10) days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this code or other law regulating the operation of vehicles on highways the city judge shall prepare and immediately forward to the state department of safety an abstract of the record of the court covering the case in which said person was so convicted or forfeited bail, which abstract must be certified by the city judge to be true and correct. Report need not be made of any conviction involving the illegal parking or standing of a vehicle.

(3) Form, content. Said abstract must be made upon a form furnished by said state department of safety and shall include the name and address of the party charged, the number, if any, of his operator's or chauffeur's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment or whether bail was forfeited, and the amount of the fine or forfeiture as the case may be.

(4) Effect of noncompliance. The failure, refusal or neglect of any such judicial officer to comply with any of the requirements of this section shall constitute a misconduct in office and shall be grounds for removal therefrom. (1983 Code, § 9-1310)

15-1111. Disposition of fines, forfeitures. All fines or forfeitures collected upon conviction or upon the forfeitures of bail of any person charged with a violation of any of the provisions of this title shall be paid into the general fund to the city. (1983 Code, § 9-1311)

15-1112. Impounding of vehicles. (1) Who may impound. Members of the police department are hereby authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department or otherwise maintained by the city under the circumstances hereinafter enumerated:

(a) When any vehicle is left unattended upon a bridge, viaduct, or causeway, or in any tube or tunnel where such vehicle constitutes an obstruction to traffic.

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<sup>1</sup>Municipal code references

City clerk: title 1, chapter 3.

City judge: title 3, chapter 1.

(b) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are physically incapacitated to such an extent as to be unable to provide for its custody or removal.

(c) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement or traffic.

(2) Notice. Whenever an officer removes a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

(3) Reclamation of impounded vehicle. 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 vehicles 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. (1983 Code, § 9-1312)

15-1113. Disposal of abandoned vehicles. "Abandoned motor vehicles" as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police in accordance with Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1983 Code, § 9-1313)

15-1114. Procedure in effecting traffic arrest.<sup>1</sup> Except when authorized or directed under state law to immediately take a person before a judge for the violation of any traffic laws, a police officer who halts a person for such violation other than for the purpose of giving him a warning or warning notice and does not take such person into custody under arrest, shall take the name, address and operator's license number of said person, the registered number of the motor vehicle involved and such other pertinent information as may be necessary and shall issue to him in writing on a form provided by the city clerk a traffic citation containing a notice to answer to the charge against him in the city court of this city at a time at least five (5) days after such alleged violation, to be specified in said citation. The officer, upon receiving the written promise

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<sup>1</sup>Municipal code reference  
Arrest procedures: title 6, chapter 2.

of the alleged violator to answer as specified in this citation, shall release such person from custody. (1983 Code, § 9-1314)

15-1115. Forms, records of traffic citations and arrests. (1) The city clerk shall provide books to include traffic citation forms for notifying alleged violators to appear and answer to charges of violating traffic laws and ordinances in the city court. Said books shall include serially numbered sets of citations in quadruplicate in the form prescribed and approved jointly by the mayor and the chief of police.

(2) The city clerk shall issue such books to the chief of police or his duly authorized agent and shall maintain a record of every book so issued and shall require a written receipt for every such book.

(3) The chief of police shall be responsible for the issuance of such books to individual members of the police department. The chief of police shall require a written receipt for every book and each set of citations contained therein. (1983 Code, § 9-1315)

15-1116. Traffic citations, warrants and complaints. (1) Disposition of original, duplicate citations. Every police officer upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic laws of this city shall deposit the original and a duplicate copy of the citation with his immediate superior officer who shall cause the original to be delivered to the city court of this city and said duplicate copy to the central records section of the police department. The second duplicate copy of the citation shall be retained in the traffic citation book and shall be delivered by such superior officer to the city clerk together with such book when all traffic citations therein have been used.

(2) Trial. Upon the filing of such original citation in the city court, said citation may be disposed of only by trial in said court or by other official action of the said court.

(3) Copies to chief of police. The chief of police shall require the return to him of each traffic citation and all copies thereof, except that copy required to be retained in the book as provided herein, which has been spoiled or upon which any entry has been made and has not been issued to an alleged violator.

(4) Record of disposition. The chief of police shall also maintain or cause to be maintained in connection with every traffic citation issued by a member of the police department a record of the disposition of the charge by the city court or its traffic violations bureau.

(5) Record of warrants. The chief of police shall also maintain or cause to be maintained a record of all warrants issued by the city judge or by any other court on said traffic violation charges and which are delivered to the police department for services, and of the final disposition of all such warrants.

(6) Altering, defacing documents. It shall be unlawful and official

misconduct for any member of the police department or other officer or public employee to dispose of, alter or deface a traffic citation or any copy thereof, or the record of the issuance or disposition of any traffic citation, complaint or warrant, in any manner other than as required in this chapter. (1983 Code, § 9-1316)

15-1117. Cancellation of citations. It shall be unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner other than as provided by this chapter. (1983 Code, § 9-1317)

15-1118. Audit of records and reports. (1) Duty of city clerk. Every record of traffic citations, complaints thereon, and warrants issued therefor required in this chapter shall be audited at least quarterly by the city clerk who shall submit a report of such audit together with a summary thereof to the mayor. Such reports shall be public records.

(2) Publication of summary. The city clerk shall publish or cause to be published a quarterly summary of all traffic citations issued by members of the police department, the disposition of complaints thereon and the issuance and disposition of all warrants issued therefor in at least one (1) local daily newspaper of general circulation.

(3) Availability of records. For the purpose of this chapter, the city clerk or his duly authorized representative shall have access at all times to all necessary records, files and papers of the city court of this city and the police department. (1983 Code, § 9-1318)

15-1119. Requirements of citation to be deemed a complaint. In the event the form of citation provided under section 15-1114 includes information and is sworn to as required under the general laws of this state in respect to a complaint charging commission of the offense alleged in said citation to have been committed, then such citation when filed with a court having jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution under this code. (1983 Code, § 9-1319)

15-1120. Violation of promise to appear prohibited. 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. (1983 Code, § 9-1320)

15-1121. Illegal parking - issuance of citation. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, ordinance, or by state law, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall

conspicuously affix to such vehicle a traffic citation, on a form provided by the city clerk, for the driver to answer to the charge against him within five (5) days during the hour and at a place specified on the citation. (1983 Code, § 9-1321)

15-1122. Failure to obey citation for illegal parking. If a violator of the restrictions on stopping, standing or parking under the traffic laws or ordinances does not appear in response to a traffic citation affixed to such motor vehicle within a period of five (5) days the city clerk shall send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing him of the violation and warning him that in the event such letter is disregarded for a period of five (5) days a warrant of arrest will be issued. (1983 Code, § 9-1322)

15-1123. Presumption as to registered owner of illegally parked vehicles.

(1) In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

(2) The foregoing stated presumption shall apply only when the procedure as prescribed in §§ 15-1121 and 15-1122 has been followed. (1983 Code, § 9-1323)

15-1124. Issuance of warrant for arrest for illegally parked vehicle. In the event any person fails to comply with a traffic citation given to such person or summons directing an appearance in the city court or traffic violations bureau, or if any person fails or refuses to deposit bail as required and within the time permitted by law, the city judge shall issue a warrant for his arrest. (1983 Code, § 9-1324)

## CHAPTER 12

REGULATING MOTOR VEHICLE RACING

## SECTION

- 15-1201. License required.
- 15-1202. Application.
- 15-1203. Restrictions.
- 15-1204. Expiration dates of licenses.
- 15-1205. Revocation of license.
- 15-1206. Penalty for violation.

15-1201. License required. No person, firm, or corporation shall operate or conduct any motor vehicle races on any permanent racetrack or other place for the holding of such a race upon which motor vehicles of any description are raced or are in direct competition, unless license to operate and conduct the same shall be first obtained from the city clerk of the City of Winchester. (Ord. #605, Feb. 1990)

15-1202. Application. (1) Application for a License to operate or conduct a racetrack or other place for the holding of such races or exhibitions shall be made in writing to the city clerk of the City of Winchester at least thirty (30) days prior to the date on which any race or exhibition or series of races or exhibitions shall be held thereon, which application shall describe the track or place desired to be licensed and shall contain such other information as the city clerk may require.

(2) Such application shall be accompanied by fee of seventy five dollars (\$75.00) of which twenty five dollars (\$25.00) shall be returned to the applicant if the license is refused.

(3) No license shall be issued for the operation or conduct of any such track or other place unless the applicant has first obtained a license for the operation of said racetrack from the State of Tennessee and said applicant has met the requirements as provided by Tennessee Code Annotated § 55-22-101 et seq. (Ord. #605, Feb. 1990)

15-1203. Restrictions. It shall be unlawful for any person, firm, or corporation to operate or conduct any motor vehicle races on any permanent racetrack or other place for the holding of such races upon which motor vehicles of any description are raced between the hours of 11:30 p.m. and 1:00 p.m. (Ord. #605, Feb. 1990)

15-1204. Expiration dates of licenses. The license granted hereunder shall expire on December 31 of each year and may be renewed during the month

of December upon proper application and compliance with the terms of this ordinance and payment of the license fee. (Ord. #605, Feb. 1990)

15-1205. Revocation of license. (1) Any licensee under this chapter may have his, her, or its license revoked by the city council for violation of any provision of this ordinance.

(2) A licensee shall be afforded at least five (5) days notice of revocation and a reasonable opportunity to be heard prior thereto. A license which has been revoked may be reinstated by the mayor and councilmen upon compliance with the requirement of the chapter and payment of a reinstatement fee of twenty dollars (\$20.00).

(3) A license which has been revoked three (3) times for violation of this ordinance may not be reinstated. (Ord. #605, Feb. 1990)

15-1206. Penalty for violation. Whoever knowingly or intentionally violates any provision of this chapter shall, upon conviction, be punished by a fine of fifty dollars (\$50.00). (Ord. #605, Feb. 1990)



## CHAPTER 13

REGULATING PARKING AND SETTING PARKING FINES  
FOR THE DOWNTOWN AREA

## SECTION

15-1301. Fines.15-1302. Juror parking.

15-1301. Fines. Downtown parking, which includes the public square and one block off the public square or any other parking areas deemed by the city council as appropriate for two hour parking and posted as such will be strictly enforced and a fine of ten dollars (\$10.00) will be imposed for each violation. An additional ten dollar (\$10.00) charge may be levied if the fine is not paid in twenty-one (21) calendar days of the issuance of the parking ticket. (as added by Ord. #665, April 1994, and replaced by Ord. #675, Oct. 1994)

15-1302. Juror parking. The City Council of Winchester does hereby provide for juror parking and approves for the dismissal for downtown parking violations incurred as a result of jury duty, upon the proper validation by the circuit court clerks office. (as added by Ord. #675, Oct. 1994)

## TITLE 16

STREETS AND SIDEWALKS, ETC.<sup>1</sup>

## CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

## CHAPTER 1

MISCELLANEOUS

## SECTION

- 16-101. Obstructing public ways and places.
- 16-102. Display of merchandise on sidewalks prohibited.
- 16-103. Trees projecting over streets, etc., regulated.
- 16-104. Trees, etc., obstructing view at intersections prohibited.
- 16-105. Projecting signs and awnings, etc., restricted.
- 16-106. Banners and signs across streets and alleys restricted.
- 16-107. Attachment of posters and banners to utility poles regulated.
- 16-108. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-109. Littering streets, alleys, or sidewalks prohibited.
- 16-110. Obstruction of drainage ditches.
- 16-111. Abutting occupants to keep sidewalks clean, etc.
- 16-112. Parades, etc., regulated.
- 16-113. Application for parade permit.
- 16-114. Issuance of parade permit.
- 16-115. Revocation of parade permit.
- 16-116. Operation of trains at crossings regulated.
- 16-117. Animals and vehicles on sidewalks.
- 16-118. Fires in streets, etc.

16-101. Obstructing public ways and places.<sup>2</sup> It shall be unlawful for any person to place upon any of the streets, alleys, sidewalks or pavements of the city, any wood, lumber, barrels, packages or other obstructions, or to suffer the same to remain on said streets, alleys, and sidewalks. Provided, that this section shall not be construed as to prevent persons from erecting scaffolds for building purposes, or using a reasonable portion of the street for the reception

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

<sup>2</sup>Municipal code reference

Interference with traffic: title 11, chapter 8.

of building materials while a house is in a process of building or repairs, after permission for the use of such streets or sidewalks or alleys has been obtained from the city clerk. (1983 Code, § 12-101)

16-102. Display of merchandise on 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 except under the following conditions:

(1) Merchants may display and sell their goods and wares on and from the streets and/or sidewalks on such special event days or at other times as are specifically authorized by the mayor and city council and under such circumstances and conditions that the mayor and city council deem appropriate. Displays may not unreasonably restrict pedestrian and vehicular traffic.

(2) News racks or news vending machines may be placed on the sidewalks for sale or dispensing of newspapers at such specific locations are authorized by the mayor and city council upon application to the city. In granting permits for the placement of news racks or news vending machines on the public sidewalks, the city shall endeavor to minimize their effect on the flow and safety of pedestrian and vehicular traffic.

(3) Members of nonprofit, charitable organizations may conduct bake sales, sidewalk sales, bazaars, and other activities on public streets, alleys, sidewalks and rights of way within the city limits of the City of Winchester after obtaining approval of the Chief of Police of the City of Winchester, or his designee. Such approval shall specify the location of the activity and its duration.

(4) Benches may be placed on sidewalks after obtaining a permit from the city. Benches shall be no longer than seventy-two inches (72") nor wider than thirty inches (30"). Permits shall specify where the benches are to be placed. The bench design and style must be acceptable to the city.

(5) All items referenced above shall be placed so as to allow unobstructed minimum passage for pedestrians of forty-eight inches (48") on the sidewalks.

(6) Violations of the above will be subject to removal by the city at a cost to the violator of one hundred dollars (\$100.00) or actual cost to remove (whichever is greater). (1983 Code, § 12-102, as replaced by Ord. #903, Feb. 2009)

16-103. 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. (1983 Code, § 12-103)

16-104. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his

property any tree, shrub, sign, billboard, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1983 Code, § 12-104)

16-105. 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. (1983 Code, § 12-105)

16-106. 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 city council after a finding that no hazard will be created by such banner or sign. (1983 Code, § 12-106)

16-107. Attachment of posters and banners to utility poles regulated.

(1) The city council considers it unsightly and expensive for posters and banners to be attached to the utility poles within the City of Winchester. The city council considers it the responsibility of the person or organization whose interest is promoted by such posters or banners to remove the same as soon as their purpose has been served.

(2) Any person or organization who desires to attach posters or banners to utility poles within the city shall first obtain a permit from the city authorizing it to do so. Before such a permit is granted, the city will require such person or organization to make a deposit of \$100.00 to be held until the posters and banners are removed. It shall be the responsibility of the person or organization whose interest is promoted by the poster or banner to have them removed from all utility poles within one week after the election or event for which they are posted. If all posters and banners are so removed, the deposit will be returned.

(3) It is hereby declared a misdemeanor for any posters or banner to remain attached to a utility pole for more than one week after the election or event which is promotes.

(4) The city will retain the \$100 deposit posted by any person or organization if any of their posters or banners remain attached to the utility poles for more than one week following the event for which they were posted. These deposits will help defray the expense of the city incurred by removing such posters. The forfeiture of the deposit shall be in addition to any fine imposed for the violation of this chapter. (1983 Code, § 12-107)

16-108. 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. (1983 Code, § 12-108)

16-109. 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. (1983 Code, § 12-109)

16-110. 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. (1983 Code, § 12-110)

16-111. 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. (1983 Code, § 12-111)

16-112. 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 city clerk. No permit shall be issued by the city clerk unless such activity will not unreasonably interfere with traffic. (1983 Code, § 12-112)

16-113. Application for parade permit. Application for a parade, procession or assembly may be made by any person having charge of such activity. Application shall be filed with the city clerk at least 24 hours (excluding Sundays and holidays) prior to the time of such activity.

The application must include the following information:

- (1) The number of persons to participate in the activity.
- (2) The route the parade shall follow.
- (3) The starting time.
- (4) The time the parade will end (within 15 minutes).
- (5) The number and type of vehicles to be parked.
- (6) The approximate rate of march.
- (7) The number of persons to march abreast in the widest rank of marchers.
- (8) A list of any bands, or noise making apparatus.
- (9) Any police escort requested.

A permit fee of five dollars (\$5.00) shall be paid on making application. (1983 Code, § 12-113)

16-114. Issuance of parade permit. The city clerk will issue the permit on filing of the application and payment of the fee unless, in his opinion, the

proposed parade, procession, or assembly would seriously interfere with the peace and welfare of the city. (1983 Code, § 12-114)

16-115. Revocation of parade permit. The chief of police may revoke the permit if it becomes clear to him that such an activity would result in a serious disturbance of peace and welfare of the city, or that there is not substantial compliance with all statements made in the application.

Revocation of the permit will not entitle the applicant to a refund to the permit fee paid. (1983 Code, § 12-115)

16-116. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall also be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1983 Code, § 12-116)

16-117. 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. (1983 Code, § 12-117)

16-118. 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. (1983 Code, § 12-118)

## CHAPTER 2

EXCAVATIONS AND CUTS<sup>1</sup>

## SECTION

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

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the city clerk is open for business, and said permit shall be retroactive to the date when the work was begun. (1983 Code, § 12-201)

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

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<sup>1</sup>State law reference

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

to the work to be done. Such application shall be rejected or approved by the city clerk within twenty-four (24) hours of its filing. (1983 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. (1983 Code, § 12-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the city clerk a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the city clerk 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 city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the city clerk a surety bond in such form and amount as the city clerk shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1983 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. (1983 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the city 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 city clerk shall give notice to the person, firm, corporation, association, or others



that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1983 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 city clerk in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1983 Code, § 12-207)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the city clerk. (1983 Code, § 12-208)

16-209. Supervision. The city clerk shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1983 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 city clerk. 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 to separate said driveways. Driveway aprons shall not extend into the street. (1983 Code, § 12-210)

## TITLE 17

REFUSE AND TRASH DISPOSAL

## CHAPTER

## 1. REFUSE STORAGE AND COLLECTION.

## CHAPTER 1

REFUSE STORAGE AND COLLECTION

## SECTION

- 17-101. Definitions.
- 17-102. Premises to be kept in sanitary condition.
- 17-103. Garbage containers.
- 17-104. Confiscation of unsanitary containers.
- 17-105. Trash - placement of containers.
- 17-106. Cardboard containers.
- 17-107. Construction debris.
- 17-108. Time and frequency of collection.
- 17-109. Requirements for collection vehicles.
- 17-110. Disposal of garbage, etc., after collection.
- 17-111. Permit required for private collection.
- 17-112. City functions.
- 17-113. Schedule of fees to be adopted.
- 17-114. Special collection services.
- 17-115. Billing of service fees.
- 17-116. Special rules, regulations, and charges authorized for certain refuse.
- 17-117. Exceptions.
- 17-118. Implementing authority of the public works director.
- 17-119. Accumulation of rubbish prohibited.
- 17-120. Weeds and grass.
- 17-121. Refuse not to be dumped in streams and other places.
- 17-122. Unlawful to deposit trash, etc., on streets, sidewalks, etc.
- 17-123. Health officer authorized to issue compliance orders.
- 17-124. Violations.

17-101. Definitions. (1) "Refuse." Garbage, rubbish, ashes, and all other putrescible and nonputrescible, combustible and noncombustible materials originating from the preparation, cooking and consumption of food, market refuse, waste from the handling and sale of produce and other similar unwanted materials, but shall not include sewage, body wastes, or recognizable industrial by-products from all residences and establishments public and private.

(2) "Garbage." All putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognizable industrial by-products from all public and private residences and establishments.

(3) "Rubbish." All nonputrescible waste materials except ashes from all public and private residences and establishments.

(4) "Ashes." The waste products from coal, wood and other fuels, used for cooking and heating from all public and private residences and establishments.

(5) "Collector." Any person that collects, transports, or disposes of any refuse within the corporate limits.

(6) "Health officer." The health authority of the city or his authorized representative. (Ord. #627, Apr. 1992)

17-102. Premises to be kept in sanitary condition. All persons within the corporate limits are hereby required to keep their premises in a clean and sanitary condition, free from accumulation of refuse, offal, filth and trash. All persons are hereby required to store such refuse in sanitary containers of the type described by the health officer between intervals of collection or to dispose of such material in a manner prescribed by the health officer so as not to cause a nuisance or become injurious to the public health and welfare. (Ord. #627, Apr. 1992)

17-103. Garbage containers. (1) Each owner, occupant, tenant, subtenant, leasee, or others, using or occupying any building, house, structure or grounds within the corporate limits where refuse materials or substances as defined in this chapter accumulate or are likely to accumulate, shall provide an adequate number of suitable containers of a type approved by the health officer, for the storage of refuse.

(2) All garbage shall be placed in approved cans. Each can shall be strong, durable and rodent proof and be equipped with a secured lid. They shall have a capacity of not less than 20 gallons nor more than 32 gallons. Plastic bags may be used but must be put in approved cans.

(3) Effective July 1, 1995, garbage not placed in approved cans as described above will no longer be picked up.

(4) Plastic bags may be used for city pick-up of yard waste (leaves, twigs and recyclables. (Ord. #627, Apr. 1992, as amended by Ord. #681, § 1, March 1995)

17-104. Confiscation of unsanitary containers. The official refuse collecting agency of the city is herein authorized to confiscate or to remove unsanitary storage containers from the premises of residences and establishments, public and private, when at the discretion of the health officer such containers are not suitable for the healthful and sanitary storage of refuse

substances. Such unsatisfactory containers shall be removed and disposed of at a place in a manner designated by the official collecting agency only after the owner or owners of such containers have been duly notified of such impending action. (Ord. #627, Apr. 1992)

17-105. Trash - placement of containers. Where alleys are used by the city refuse collectors, containers shall be placed preferably on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city refuse collectors, containers shall be placed preferably adjacent to the back of the ditch or street line if there is no curb, at such times as shall be scheduled by the Department of Public Works 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.

All loose trash, debris and refuse to be collected by the city street cleaning departments shall be placed within one or more covered containers to prevent the same from being scattered over the streets. Such containers shall be placed near the edge of the curb in business areas, so as not to interfere with the free passage of traffic on the sidewalks. (Ord. #627, Apr. 1992)

17-106. Cardboard containers. All cardboard containers not filled with loose trash or debris are to be broken down flat and tied together so as to make one flat package so that they may be less cumbersome and less dangerous to handle. Where they are collected from the front of a business establishment, they are to be placed near the curb in such a manner as not to interfere with the safe use of the sidewalk and/or street. (Ord. #627, Apr. 1992)

17-107. Construction debris. All rubbish, refuse, and debris from construction projects such as scraps of lumber, roofing material, bricks, cinder blocks, pipes, wires, glass, mortar, sand, dirt, and any other material associated with construction and repair of structures shall be completely removed from the site of construction to a place designated by the health officer for disposal at the expense of the builder or other person making the repairs or construction, and within two (2) days of the completion of such repair or construction. (Ord. #627, Apr. 1992)

17-108. Time and frequency of collection. All refuse (including garbage and rubbish) shall be collected with sufficient frequency to prevent the occurrence of nuisances as public health hazards at intervals of at least once in seven (7) days. The collection of refuse within the city shall be under the jurisdiction of the Department of Public Works. (Ord. #627, Apr. 1992)

17-109. Requirements for collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials and easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and public thoroughfares. Provisions shall be made to prevent the scattering of refuse over the streets and thoroughfares by effective coverings or closed truck beds. Collection vehicles shall not be allowed to enter upon private property unless approval is granted by the property owner and the director of public works. (Ord. #627, Apr. 1992)

17-110. Disposal of garbage, etc. after collection. The disposal of refuse in any quantity by any person in any place, public or private, other than the site or sites designated by the constituted authority of the city is expressly prohibited. All disposal of refuse and garbage shall be by methods approved by the department of health, provided that such methods shall include the maximum practical, rodent, insect, and nuisance control at the place of disposal, and provided that no garbage shall be fed to swine unless said garbage has first been heated to at least 212°F, and held there for at least 30 minutes in apparatus and by methods approved by the health officer. Provided further that animal offal and carcasses of dead animals shall be buried or cremated under circumstances approved by the health officer, or shall be rendered at 40 psi. steam pressure or higher, or similarly heated by equivalent cooking. (Ord. #627, Apr. 1992)

17-111. Permit required for private collection. No person shall engage in the business of collecting refuse or removing the contents of any refuse container (other than the owner of such containers) for any purpose whatsoever, who does not possess a permit to do so from appropriate authority of the city. Such permits may be issued only after the applicant's capability of complying with the requirements of this chapter has been fully determined by the health and sanitation board. Such permits shall be issued, suspended or revoked upon the violation of any of the terms of the chapter. (Ord. #627, Apr. 1992)

17-112. City functions. Except as otherwise herein provided only the city shall engage in the business of collecting, removing, or disposing of residential refuse within the corporate city limits. Only the city shall engage in the business of collection, removal or disposal of commercial or industrial refuse; however, when the volume or any condition is such that the department of public works personnel and equipment cannot provide normal garbage services, the governing body may elect not to collect and/or dispose of the refuse. In this event, the refuse producer shall be required to contract with a private firm, which must be approved by the city, to collect and dispose of the refuse. The refuse producer may collect and dispose of its own generated refuse, if approved by the city and if the refuse is disposed of, in accordance with local, state and federal regulations, at state permitted disposal facilities. Refuse collection and

disposal services provided by the city may be with its own forces or by contracts with private service providers. (Ord. #627, Apr. 1992)

17-113. Schedule of fees to be adopted. The city council shall establish a schedule of fees for collection by a simple motion and majority vote of the Winchester city council for removal and disposal of all refuse for residential and commercial establishments. A copy of the schedule of fees shall be kept in the city administrators office for public inspection. (Ord. #627, Apr. 1992)

17-114. Special collection services. The director of public works may provide other collection and removal services to meet unusual circumstances and conditions, in accordance with regulations and fees recommended by him and approved by the municipal governing body. (Ord. #627, Apr. 1992)

17-115. Billing of service fees. 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. The accounts shall be paid monthly at the same time the water bills are paid.

Water service shall be discontinued for failure to pay the refuse service fee by the delinquency date prescribed for the water bill.

All applicable fees for collection, removal and disposal of refuse shall be collected in the same manner as water charges.

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 by 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 that the occupants 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. (Ord. #627, Apr. 1992)

17-116. Special rules, regulations, and charges authorized for certain refuse. Collection, removal, and disposal of the following types of refuse shall be subject to reasonable rules and regulations approved by resolution of the municipal governing body and special charges in accordance with the schedule of fees for refuse collection and disposal:

- (1) Building or construction debris.
- (2) Trees, tree trimmings, leaves, lawn clippings, etc.
- (3) Dangerous materials or substances such as poisons, acids, or caustics, or refuse which is highly infectious or combustible.
- (4) Junk automobiles, refrigerators, and other bulk items. (Ord. #627, Apr. 1992)

17-117. Exceptions. Nothing in this chapter shall prevent: (1) Any commercial refuse producer from collecting, removing, and disposing of his own refuse, provided he does so in such manner as not to create a nuisance, that all applicable local, state and federal regulations regarding refuse collection and disposal are complied with and provided further that he pays all applicable disposal fees.

(2) Any licensed junk dealer and/or organization, profit or non-profit, from collection refuse recognized as having salvage value, or that can be recycled or otherwise transformed into a usable substance, provided such dealer, or organization may collect such salvageable, or recyclable material only from premises where he has written invitation from the occupant.

(3) Any refuse producer or owner from selling or giving salvageable materials to licensed junk dealers for collection, removal, and disposal. (Ord. #627, Apr. 1992)

17-118. Implementing authority of the public works director. The collection, removal, and disposal of refuse from premises in the city shall be under the supervision and control of the public works director. He shall recommend to the governing body such reasonable rules and regulations, not inconsistent with the provisions of this chapter, as he deems to be necessary or desirable, which shall become effective when approved by resolution of the governing body. (Ord. #627, Apr. 1992)

17-119. Accumulation of rubbish prohibited. It shall be unlawful for any person in charge of any premises within the corporate limits to permit to remain thereon any empty bottles, empty cans, or any receptacles likely to gather and hold water that will breed mosquitoes or other flies and pests, and the failure to remove such debris after notice by the city authorities shall be punishable under the general penalty provision of this code. (Ord. #627, Apr. 1992)

17-120. Weeds and grass. Any growth of weeds or grass to a height in excess of ten (10) inches or which harbors mosquitoes or gives off unpleasant noxious odors, on any lot or parcel of land in the corporate limits is hereby declared to be a nuisance and the same shall be abated as now provided by law at the expense of the person in charge of or in possession of said property upon which said weeds are growing. (Ord. #627, Apr. 1992)

17-121. Refuse not to be dumped in streams and other places. It shall be unlawful for any person to dump refuse in any form into any stream, ditch, storm sewer, sanitary sewer, or other drain within the city. (Ord. #627, Apr. 1992)

17-122. Unlawful to deposit trash, etc., on streets, sidewalks, etc. It shall be unlawful for any person to throw or in any way deposit garbage, trash,



rubbish or refuse on the streets or sidewalks of the city, or any vacant lot, or on the property of another. (Ord. #627, Apr. 1992)

17-123. Health officer authorized to issue compliance orders. It shall be the duty of the health officer or his authorized representative to issue orders requiring the proper handling of garbage and refuse on private and public premises to owners, occupants, tenants or lessees of such properties where violations of this chapter are known to exist, and providing that such violations be corrected within the time specified by the health officer. (Ord. #627, Apr. 1992)

17-124. Violations. Any person violating or failing to comply with any provision of this chapter or any lawful regulation of the public works director or the health office shall be subject to the penalties provided for in the adopting ordinance for this municipal code. (Ord. #627, Apr. 1992)

## TITLE 18

WATER AND SEWERS<sup>1</sup>

## CHAPTER

1. SEWER USE ORDINANCE.
2. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

## CHAPTER 1

SEWER USE ORDINANCE<sup>2</sup>

## SECTION

- 18-101. Purpose and policy.
- 18-102. Definitions and abbreviations.
- 18-103. Use of public sewers.
- 18-104. Private wastewater disposal.
- 18-105. Building sewers and connections.
- 18-106. Pollutant discharge limits.
- 18-107. Pretreatment program administration.
- 18-108. Fees.
- 18-109. Powers and authority of inspectors.
- 18-110. Enforcement.
- 18-111. Penalties.
- 18-112. Validity.

18-101. Purpose and policy. This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Winchester and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the general Pretreatment Regulations (40 CFR 403).

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.  
Refuse disposal: title 17.

<sup>2</sup>Private act reference

Water, sewer and electrical services are supplied by and governed under the authority and rules and regulations of the Board of Public Utilities, which was established pursuant to Priv. Acts 1953, ch. 404. This act, as amended, is reproduced in full in the charter section of this municipal code, immediately following the text of the charter.

The objectives to this chapter are:

- (1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- (2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
- (4) To provide for equitable distribution of the cost of the wastewater system.

This chapter for the regulation of direct and indirect contributors to the wastewater system through the issuance of permits to certain non-domestic users, enforcement of general requirements for all users, authorizes monitoring and enforcement activities, requires industrial user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This chapter shall apply to the City of Winchester and to persons outside the city who are, by contract or agreement with the city, users of the city's Publicly Owned Treatment Works (POTW). Except as otherwise provided herein, the manager of the Winchester Utility System on behalf of the city POTW shall administer, implement and enforce the provisions of the chapter. (1983 Code, § 8-201, as replaced by Ord. #655, June 1993)

18-102. 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 Tennessee Department of Environment and Conservation, Division of Water Pollution Control and/or any authorized representative thereof.
- (3) "Authorized representative" - An authorized representative of a user may be: (a) a principal executive officer of at least the level of vice-president, if the industrial user is a corporation, (b) a general partner or proprietor if the user is a partnership or proprietorship, respectively; (c) a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

An authorized representative of the city may be any person designated by the city to act on its behalf.

(4) "Available" - As used in connection with this chapter means a public sewer located at the property line or point at which connection may be made with the city sanitary sewage collection facilities.

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

(6) "Board" - The Winchester Utility System, its Board of Directors, or the Manager of the POTW or his/her designee.

(7) "Building sewer permit" - As set forth in "Building Sewers and Connections" (Section 18-105).

(8) "Categorical standards" - National Categorical Pretreatment Standards or Pretreatment Standard. Any regulations containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) and 40 CFR 403 which applies to a specific category of industrial users.

(9) "City" - The City of Winchester, Tennessee, its council or mayor or his/her designee, or manager of the Winchester Utility System.

(10) "Combined sewer" - Any conduit carrying both sanitary sewage and storm water or surface water.

(11) "Compatible pollutant" - Biochemical oxygen demand, suspended solids and fecal coliform bacteria; plus additional pollutants that the POTW is designed to treat and, in fact, does treat to the degree required by the POTW's NPDES permit.

(12) "24-Hr., flow proportioned composite sample" - A combination of individual samples of water or wastewater taken at selected intervals, or based on quantity of flow for some specified period, to minimize the effect of variability of the individual sample. Individual samples may have equal volume or may be proportioned to the flow at the time of the sampling.

(13) "Control authority" - The term shall refer to the "approval authority" defined hereinabove; or the manager of the POTW or his/her designee if the city has an approved pretreatment program under the provisions of 40 CFR 302.11.

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

(15) "County health department" - The Health Department for Franklin County.

(16) "Dilution stream" - Any wastewater not generated by a process regulated for the specific pollutant by a categorical standard under 40 CFR, subchapter N.

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

(18) "Easement" - An acquired legal right for the specific use of land owned by others.

(19) "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 his/her duly authorized representative of said agency.

(20) "Equipment" - All movable, non-fixed items necessary to the wastewater treatment process.

(21) "Federal pretreatment standards" - Federal regulations for pretreatment of industrial wastewater under 40 CFR, subchapter N and any applicable regulations, as amended.

(22) "Garbage" - The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

(23) "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.

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

(25) "Incompatible pollutant" - All pollutants other than compatible pollutants as defined in its section.

(26) "Indirect discharge" - The discharge or the introduction of pollutants into a POTW from an nondomestic source regulated under Section 307(b), (c) or (d) of the Act and including holding tank wastes discharged into the system.

(27) "Industrial user" - A source of indirect discharge.

(28) "Industrial waste" - The wastewaters from industrial or commercial processes as distinct from domestic or sanitary wastes.

(29) "Interceptor" - A device designed and installed so as to separate and retain deleterious hazardous and undesirable matter from domestic wastes while permitting domestic sewage or liquid wastes to discharge into the sewer system or drainage system by gravity. Interceptor as defined herein is commonly referred to as a grease, oil or sand trap.

(30) "Interference" - The inhibition or disruption of the POTW treatment processes or operations or that which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act (33 USC 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substance Control Act, or more stringent state criteria (including those obtained in any state sludge management plan prepared pursuant to Title IV or SWDA) applicable to the method of disposal or use employed by the POTW.

(31) "Manager" - The manager of wastewater facilities, and/or of Publicly Owned Treatment Works (POTW) and/or of water pollution control for

the Winchester Utility System or his/her authorized deputy, agent or representative.

(32) "Maximum daily concentration" - The maximum concentration per day of pollutant based on the analytical results obtained from a 24-hour composite sample.

(33) "May" - This is permissive.

(34) "National Pollutant Discharge Elimination System or NPDES Permit" - A permit issued pursuant to Section 402 of the Act (33 USA 1332).

(35) "Natural outlet" - Any outlet, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

(36) "New source" - Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c) (33 USC 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.

(37) "Operation and maintenance expenses" - All annual operation and maintenance expenses including replacement cost related directly to operating and maintaining the sewage works as shown by annual audit.

(38) "Pass through" - A discharge which exits the POTW into the waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of the POTW's NPDES permit (including an increase in the magnitude or duration of violation).

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

(40) "pH" - The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

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

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

(43) "POTW treatment plant" - That portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

(44) "Pretreatment or treatment" - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.

(45) The reduction or alteration can be obtained by physical, chemical or biological processes, or process change(s), or other means, except as prohibited by 40 CFR 403.6(d).

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

(47) "Prohibitive discharge standard" - Any regulation developed under the authority of 307(b) of the Act and 40 CFR 403.5.

(48) "Properly shredded garbage" - The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch in any dimension.

(49) "Publicly owned treatment works (POTW)" - A treatment works as defined by Section 212 of the Act (33 USC 1292) which is owned this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant but does not include pipes, sewers, or other conveyance 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 jurisdiction of the city who are users to the city's POTW.

(50) "Public sewers" - A common sewer controlled by a governmental agency or public utility. In general, the public sewer shall include the main sewer in the street and the service branch to the curb or property line, or a main sewer on private property and the service branch to the extent of ownership by public authority.

(51) "Replacement" - Expenditure for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(52) "Sanitary sewer" - A sewer that carries liquid and water borne wastes from residences, commercial buildings, industrial plants and institutions.

(53) "Sewage" - The spent water of a community. Domestic or sanitary waste shall mean the liquid or water borne wastes from residences, commercial buildings and institutions and is distinct from industrial sewage. The terms "sewage" and "wastewater" are used interchangeably.

(54) "Sewage system or works" - All facilities for collecting, transporting, pumping, treating and disposing of sewage and sludge, namely the sewerage system and POTW.

(55) "Sewer" - A pipe or conduit that carries wastewater or drainage water.

(56) "Sewer service or lateral" - The extension from the building or house drain to the public sewer or other place of disposal, also called "connection."

(57) "Sewer user charges" - A system of charges levied on users of a POTW for the cost of operation and maintenance, including replacement of such works.

(58) "Shall" - This is mandatory.

(59) "Significant industrial user" - Any user of the city's wastewater disposal system who (a) is subject to a categorical Pretreatment Standard(s) under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; or (b) has an average discharge flow of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non contract cooling and boiler blowdown wastewater); or (c) has a flow greater than 5 percent or more of average dry weather hydraulic or organic capacity of the POTW treatment plant; or (d) has in its wastewaters toxic pollutants as defined pursuant to Section 307 of the Act or state statutes and rules; or (e) is found by the city, state approval authority or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

(60) "Significant violation" - A violation that meets one or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(b) Technical review criteria (TRC) - Violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the manager determines has caused, along or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);



(d) Any discharge of pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or other order issued hereunder for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance;

(h) Any other violation or group of violations which the Manager determines will adversely affect the operation or implementation of the local pretreatment program.

(61) "Slug discharge" - Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge and/or any discharge of water or wastewater in which the concentration of any given constituent or the 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 concentration or flow rate during normal operation and/or adversely affects the POTW.

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

(63) "State" - The State of Tennessee.

(64) "Storm drain or storm sewer" - A drain or sewer for conveying water, groundwater, surface water, or unpolluted water from any source.

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

(66) "Submission" - A request by a(n) (a) POTW for approval of a pretreatment program to the EPA; (b) POTW to the EPA to revise the discharge limits in categorical pretreatment standards to reflect POTW pollutant removals; or (c) NPDES State to the EPA for approval of its state pretreatment program.

(67) "Surcharge" - A charge for service in addition to the basic sewer user and debt service charge, for those users whose contribution contains biochemical oxygen demand (BOD), chemical oxygen demand (COD), suspended solids (SS) or ammonia nitrogen (NH<sub>3</sub>N) in concentrations which exceed limits specified herein for such pollutants

(68) "Suspended solids (TSS)" - Total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in "Standard

Methods for the Examination of Water and Wastewater" and referred to as non-filterable residue.

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

(70) "Unpolluted water" - Water of quality equal to or better than the treatment works effluent criteria in effects or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

(71) "User" - Any person who contributes, causes or permits the contribution of wastewater into the POTW. See definition of person.

(72) "User charge" - The charge levied on all users, including but not limited to, persons, firms, corporations, or governmental entities that discharge, cause, or permit the discharge of sewage into the POTW.

(73) "Wastewater" - The spent water of a community. Sanitary or domestic wastes shall mean the liquid and water-carried wastes from residences, commercial buildings and institutions as distinct from industrial wastes. See Sewage.

(74) "Wastewater discharge permit" - As set forth in the administration section of this chapter.

(75) "Waste facilities" - The structures, equipment and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

(76) "Wastewater treatment works" - An arrangement of devices and structures for treating domestic wastewaters and sludges. Sometimes used synonymously as "waste treatment plant" or "sewage treatment plant."

(77) "Watercourse" - A natural or artificial channel for the passage of water either continuously or intermittently.

(78) "Waters of the state" - All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation system, drainage system 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.

Abbreviations. The following abbreviations shall have the designated meanings:

BOD	-Biochemical Oxygen Demand
CFR	-Code of Federal Regulations
CWA	-Clean Water Act of 1977
EPA	-Environmental Protection Agency
l	-liter
mg/l	-milligram per liter (parts per million)
ug/l	-micron per liter (parts per billion)

NPEDS	-National Pollutant Discharge Elimination System
POTW	-Publicly Owned Treatment Works
SIC	-Standard Industrial Classification
SEDA	-Solid Waste Disposal Act (42 USC 6901, et. seq.)
TSS	-Total Suspended Solids
USC	-United States Code (1983 Code, § 8-202, as replaced by Ord. #655, June 1993)

18-103. Use of public sewers. (1) Mandatory sewer connection. (a) The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the city 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 of the city, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within thirty (30) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line.

(b) It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater where public sanitary sewer service is available, as defined in section 18-103(1)(a), except as provided for in "Private wastewater disposal" (section 18-104). The existence within the city wherever the services of the city sanitary sewage collection, treatment and disposal facilities are available, or may hereafter be made available, of septic tanks, seepage laterals, privies, earth pits, cesspools, sanitary waste vaults, sewage drainage fields, private sewage disposal systems, or any other such facilities or works for the disposition of sanitary sewage wastes other than the facilities of the city, is hereby declared to be a menace to the public health, safety and general welfare of the citizens and inhabitants of the city and is hereby determined and declared to constitute a public nuisance. The existence of such facilities as toilets, sinks, wash basins, showerbaths, bathtubs, any commercial or industrial machinery or device producing a liquid waste product, etc., in or upon any improved property or premises in said city where the facilities of the city's sewage collection, treatment and disposal system are available or may hereafter be made available is similarly declared to be a menace to the public health and general welfare of the city and its inhabitants, unless such facilities are connected to the city sewage collection, treatment and disposal system. The manager may prescribe the type and manner of connection to said facilities, and may require that each connection be supervised and inspected by an authorized and qualified agent of the city sewer department, herein named the Winchester Utility System.

(c) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer system in compliance with this chapter and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material or salvaged and removed.

(2) Unlawful discharge to storm sewers or natural outlets. (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 city or into any sewer which connects to the storm sewer system of the city, any objectionable wastewater or industrial wastes.

(b) It shall be unlawful to discharge to any natural outlet within the City of Winchester or in any area under the jurisdiction of said city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter. No provision of this chapter shall be construed to relieve the owner of a discharge to any natural outlet of the responsibility for complying with applicable state and federal regulations governing such discharge.

(3) Compliance - The discharge of any wastewater into the public sewer system by any person is unlawful except in compliance with the provisions of this chapter, and any more stringent state or federal standards promulgated pursuant to the Federal Water Pollution Control Act Amendments of 1972, the Clean Water Act of 1977 and subsequent amendments.

(4) Discharge of unpolluted waters into sewer. (a) No person(s) shall discharge or cause to be discharged through any leak, defect or connection any unpolluted waters such as storm water, ground water, roof runoff, subsurface drainage or cooling water to any sanitary sewer, building sewer, building drain or building plumbing. The manager or his representative shall have the right, at any time, to inspect the inside or outside of buildings or smoke test for connections, leaks, or defects to building sewers and require leaks, or defects to building sewers and require disconnection or repair of any pipes carrying such water to the building sewer. Such waters shall not be removed through the dual use of a sanitary drain sump or a sump pump to building sanitary sewer. Discharge of such waters by a manual switch-over from sanitary sewer to storm drainage will not be an acceptable method of separation. In case both storm and sanitary sewage is present, separate drainage or pumping system shall be included.

(b) Stormwater, groundwater and all other unpolluted drainage may be discharged to such sewers as are used as storm sewers approved by the manager. Under no circumstances shall sanitary sewage be discharged to a storm sewer.

(c) The owner(s) of any building sewers having such connections, leaks, or defects shall bear all costs incidental to removal of such sources.

(5) Substances which interfere - No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to federal categorical pretreatment standards or any other federal, state or local pretreatment standards or requirements. A user shall not contribute the following substances to any POTW:

(a) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall a wastestream exhibit a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and any substance which the city, state or EPA has notified the user is a fire hazard or a hazard to the sanitary sewer system.

(b) Any waters or wastes having a pH lower than 5 or higher than 9 or having any other corrosive property(s) capable of causing damage or hazard to structures, equipment and personnel of the POTW.

(c) Any slug load or pollutants, including oxygen demanding pollutants, released at a flow or concentration that will cause interference with the POTW's operation.

(d) Solid or viscous substance in quantities of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities.

(e) 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 that will result in a treatment plant influent temperature which exceeds 104 degrees Fahrenheit (40 degrees Centigrade).

(f) Any pollutant(s) which, either alone or by interaction with other substances, produce toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(g) Any substances which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scum to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to

be in non compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal, developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

(h) Any substance which causes the POTW to violate its NPDES permit, sludge disposal permit or the water quality standards of the receiving stream.

(i) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through at the POTW.

(j) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety.

(k) Any trucked or hauled pollutants, except at discharge points designated by the manager.

(6) Affirmative defenses. A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in section 18-103(5) and the specific prohibitions in paragraphs (5)(c), (5)(e), (5)(i), (5)(j) of this section where the users can demonstrate that:

(a) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass-through or interference; and

(b)(i) A local limit designed to prevent pass-through and/or interference as the case may be, was developed in accordance with section 18-106(1) for each pollutant in the user's discharge that caused pass-through or interference, and the user was in compliance with each such local limit directly prior to and during the pass-through or interference; or

(ii) If a local limit designed to prevent pass-through and/or interference, as the case may be, has not been developed for the pollutants(s) that caused the pass-through or interference did not change substantially in nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal. (1983 Code, §8-203, as replaced by Ord. #655, June 1993)

18-104. Private wastewater disposal. (1) Public sewer not available.

(a) Where a public sanitary sewer is not available under the provisions of Section 18-103, the building sewer shall be connected, until the public sewer system is available, to a private wastewater disposal

system complying with the provisions of applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When it becomes necessary, the sludge may be disposed of only as approved by the city, by operators licensed by the city for such purposes.

(c) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by applicable local, state or federal regulations.

(d) Industries with current NPDES permits may discharge at permitted discharge points provided they are in compliance with the conditions of said permit.

(2) Requirements for installation. (a) The type, capacity, location and layout of a private sewage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit issued by the Franklin County Health Department after approval of the system by the local and state authorities if required. The application for such permit shall be made on a form furnished by the Franklin County Health Department which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Franklin County Health Department.

(b) A permit for private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, if required. These authorities shall be allowed to inspect the work at any stage of construction, and in any event the applicant for the permit shall notify the manager when the work is ready for final inspection and before any underground portions are covered. (1983 Code, § 8-204, as replaced by Ord. #655, June 1993)

18-105. Building sewers and connections. (1) Permits. (a) There shall be two (2) classes of building sewer permits required; (i) for residential and (ii) for service to commercial, industrial and other nondomestic establishments. In either case, the owner or his agent shall make application on a special form furnished by the Winchester Utility System. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgement of the manager or his agent. Details regarding commercial and industrial permits include but are not limited to those required by this chapter. Permit and inspection fees shall be paid to the Winchester Utility System at the time the application is filed.

(b) Users shall notify the manager of the POTW of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the POTW a minimum of thirty (30) days prior to the change. The manager may deny or condition this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, basement wall seepage or floor seepage, exterior foundation drains, area way 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. Any such connections which already exist on the effective date of this chapter shall be completely and permanently disconnected within sixty (60) days of the effective date of this chapter. The owners of any building sewers having such connections, leaks or defects shall bear all costs incidental to removal of such sources. Pipes, sumps and pumps for such sources or ground and surface water shall be separate from wastewater facilities. Removal of such sources of water without presence of separate facilities shall be evidence of drainage to the public sanitary sewer.

(3) Design and installation. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the following requirements:

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

(b) The preferred minimum depth of a building sewer shall be eighteen (18) inches. Unless special engineering conditions does not allow, then management of Winchester Utilities must provide approval.

(c) 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.

(d) Slope and alignment of all building sewers shall be neat and regular.

(e) Building sewers shall be constructed only of (1) ductile iron pipe with compression joints; (2) polyvinyl chloride pipe with solvent welded or with rubber compression joints of approved type; or (3) such other materials of equal or superior quality as may be approved by the manager. Under no circumstances will cement mortar joints or clay pipe be acceptable for new installations.

(f) Cleanouts shall be located no more than five (5) feet outside of the building, one as it taps onto the utility lateral and one at each change of direction of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed not more than eighty (80) feet apart in horizontal building sewers of four (4) inch nominal diameter



and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inch pipe.

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

(h) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8 inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

(4) Inspection. The applicant for the building sewer permit shall notify the manager when the building is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the manager or his representative.

(5) Maintenance. Each individual property owner or user of the POTW's system shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by the manager to meet specifications of the city. (1983 Code, §8-205, as replaced by Ord. #655, June 1993, and amended by Ord. #809, Sept. 2003)

18-106. Pollutant discharge limits. (1) General conditions. The following described substances, materials, waters, or waste shall be limited in discharge to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property or constitute a nuisance. The Manager may set additional limitations or limitations more stringent than those established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, as the quantity of subject waste in relation to flows and velocities in the sewers,

materials of construction of the sewers, the wastewater treatment process employed, capacity of wastewater treatment plant, and other pertinent factors.

(2) Restricted discharges. (a) Wastewater containing more than 50 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or products of mineral oil origin.

(b) Wastewater from industrial plants, commercial business or other non-domestic connections containing floatable oils, fat, or grease, whether emulsified or not, in excess of 50 milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (0-65 degrees Centigrade).

(c) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, motels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

(d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interactions with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitations set forth in a Federal 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 radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the manager in compliance with applicable state and/or federal regulations.

(f) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

(g) Any waste, water with objectionable color not removable in the POTW.

(h) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving stream of the POTW.

(i) Any water or wastes which has characteristics based on a 24-hour composite sample, grab, or a shorter period composite sample if more representative, which exceed the following normal maximum domestic wastewater parameter concentrations:

<u>Parameter</u>	<u>Daily maximum allowable Concentration Without Surcharge</u>
BOD	250 mg/l
TSS	300 mg/l
NH <sub>3</sub> N	35 mg/l

Discharges greater, than these concentrations will be subject to surcharge fees contained in the Sewer Rate Ordinance for City of Winchester.

(j) The city has received authority through the EPA and State statutes to enforce the requirements of 40 CFR Subchapter N and 40 CFR 403. All users shall comply with the requirements of those regulations as with all sections of this chapter.

(k) Any waste or wastewater classified as a hazardous waste by the Resource Conservation and Recovery Act (RCRA) without, at least, a 60-day prior notification of such discharge to the manager of the POTW. This notification must include the name of the waste, EPA hazardous waste number, type of discharge, volume/mass of discharge and time of occurrence. The manager may deny or condition this discharge at any time.

(l) Any waste with a pH outside the range 6-9.

(3) Dilution of wastewater discharge. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with, the limitations contained in the federal Categorical Pretreatment Standards, or for any other pollutant-specific limitations developed by the city or the State of Tennessee.

(4) Grease, oil and sand interceptors. Grease, oil and sand interceptors shall be provided when, in the opinion of the manager, they are necessary for the proper handling of liquid wastes containing floatable oils and/or greases in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the manager and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal. The city may require reporting of such information for their review. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms. Interceptors shall also comply with applicable regulations of the Franklin County Health Department.

(5) Special industrial pretreatment requirements. (a) Pursuant to the requirements imposed on publicly owned wastewater treatment works by the Federal Water Pollution Control Act Amendments of 1972 and later amendments, all pretreatment standards promulgated by the EPA under 40 CFR Subchapter N and 40 CFR 403 for new and existing industrial discharges to public sewer systems are hereby made a part of this chapter. Any industrial waste discharge which violates these EPA Pretreatment Standards shall be in violation of this chapter.

(b) Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.

(c) Any person who transports septic tank contents, seepage pit or cesspool contents, liquid industrial waste or other batch liquid waste and wishes to discharge such waste to the public sewer system shall first obtain permission for such discharge from the manager. All persons receiving such permission shall abide by all applicable provisions that may be established by the manager as necessary for the proper operation and maintenance of the sewerage system. Waste haulers who have been granted permission to discharge to the public sewer shall pay fees for such discharge in accordance with a fee schedule established by the manager and approved by the Winchester Utility System. It shall be illegal to discharge any batch liquid waste into any manhole or other part of the public sewer system or any building sewer or other facility that discharges to the public sewer systems except at points of discharge designated by the manager for such purposes. Any liquid waste hauler shall be subject to immediate revocation of discharge privileges (if granted) and further subject to the penalties and enforcement actions prescribed in section 18-111. Nothing in this chapter shall relieve waste haulers of the responsibility for compliance with County Health Department, State or Federal regulations.

(6) Protection from accidental and slug discharges. (a) Each significant industrial user shall provide protection from accidental and/or slug discharges of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental and slug discharges of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Once every two (2) years the manager will determine whether each significant industrial user needs to develop a plan to control slug discharges. If the manager decides that a slug control plan is needed, the plan shall contain the following:

- (i) description of discharge practices
- (ii) description of stored chemicals
- (iii) procedures for notifying the POTW
- (iv) prevention procedures for spills

In the case of all possible or actual accidental and/or slug discharges, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include the location of discharge, type of waste, concentration and volume and corrective actions taken.

(b) Within five (5) days following an accidental and/or slug discharge, the user shall submit to the manager a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this chapter, the enforcement response plan or other applicable law or regulation.

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

(7) State requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal regulations and limitations or those in this chapter.

(8) City's right to revision. The city or its representatives reserves the right to establish, by a majority vote of its commissioners, more stringent limitations or requirements on discharges to the POTW at the recommendation of the manager or if deemed necessary comply with the objectives presented in this chapter.

(9) Federal categorical pretreatment standards. Upon the promulgation of federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The manager shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12. (1983 Code, §8-206, as replaced by Ord. #655, June 1993)

#### 18-107. Pretreatment program administration.

(1) Wastewater discharges. It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city and/or to the POTW any wastewater except as authorized by the manager in accordance with the provisions of this chapter. Any agency and/or industries outside the jurisdiction of the city that wish to contribute wastewaters to the

POTW must first sign (through an authorized representative) an interjurisdictional agreement whereby the agency an/or user agrees to be regulated by all provisions of this chapter, state and federal regulations. An industrial user discharge permit may then be issued by the manager in accordance with section 18-107(2).

(2) Industrial user discharge permits. (a) General. All significant industrial users proposing to connect to or contribute to the POTW shall obtain an industrial user discharge permit before connecting to or contributing to the POTW. All existing significant industrial users connected to or contributing to the POTW shall apply for an industrial user discharge permit within thirty (30) days of the effective date of this chapter.

(b) Permit application. Users significant industrial users proposing to connect to or contribute to the POTW shall obtain an industrial user discharge permit before connecting to or contributing to the POTW. All existing significant industrial users connected to or contributing to the POTW shall apply for industrial user discharge permit within thirty (30) days of the effective date of this chapter, and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit in units and terms appropriate for evaluation the following information, in addition to any other information the manager may desire:

(i) Name, address and location of facility, and owner(s) if different from that given;

(ii) Sic number(s) according to the Standard Industrial Classification Manual, Office of Management and Budget, 1972, as amended;

(iii) Wastewater constituents and characteristics as determined by an analytical laboratory acceptable to the city; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR 136, as amended and 40 CFR 261;

(iv) Time and duration of contribution;

(v) Daily average and maximum wastewater flow rates, including daily, monthly and seasonal variations if any;

(vi) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation;

(vii) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

(viii) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or

federal pretreatment standards and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional pretreatment is required for the user to meet applicable pretreatment standards;

(ix) If additional pretreatment will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standards. The following conditions shall apply to this schedule.

(A) The schedule must be acceptable to the city.

(B) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards.

(C) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the manager including, as a minimum, whether or not it complied with the increment of progress to be met on such date, and if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established.

(x) Each project produced by type, amount, process and rate of production;

(xi) Type and amount of raw materials processed (average and maximum per day);

(xii) Number of employees and hours of operation of plant and proposed or actual hours of operation of the pretreatment system;

(xiii) A copy of the industry's written environmental control program, comparable document or policy;

(xiv) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

(c) Issuance of industrial user discharge permit. The manager shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the manager may issue an industrial user discharge permit subject to the terms and conditions provided herein.

(3) Permit modifications. Within nine (9) months of the promulgation of a federal categorical pretreatment standard, the Industrial User Discharge Permit of any user subject to that standard shall be revised to require compliance with the standard within the time frame prescribed by such

standard. Where a user subject to federal categorical pretreatment standards has not previously submitted an application for an industrial user discharge permit as required, the user shall apply for the permit within ninety (90) days of the date of promulgation of the applicable federal categorical pretreatment standard. In addition, the user with an existing industrial user discharge permit shall submit to the manager within nine (90) days of the date of promulgation of an applicable federal categorical pretreatment standard the information required by this chapter.

(4) Permit conditions. (a) Industrial user discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city. Permits may contain the following.

(i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the public sewer system;

(ii) Limits on the average and maximum wastewater constituents and characteristics;

(iii) Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;

(iv) Requirements for installation and maintenance of inspection and sampling facilities;

(v) Specifications for monitoring programs which may include sampling locations, frequency of sampling to be performed, types and standards of analysis and reporting schedules;

(vi) Compliance schedule(s);

(vii) Requirements for maintaining and retaining all records relating to wastewater discharge as specified by the city for a minimum of three years, and afford city access thereto;

(viii) Requirements for notification of the city of any new introduction of wastewater constituents of any substantial change in the volume or character of the wastewater treatment system;

(ix) Requirements for notification of slug discharges;

(x) Requirements for the user to reimburse the city for all expenses related to monitoring, sampling and testing performed at the direction of the manager and deemed necessary by the city to verify that the user is in compliance with the said permit;

Statement of duration (in no case more than five years);

(xi) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;

(xii) Effluent limits based on applicable general pretreatment standards, categorical pretreatment standards, local limits, and state and local law;

(xiii) Self-monitoring sampling, reporting notification and record keeping requirements, including an identification of the



pollutants to be monitored sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in part 403 of this chapter, categorical pretreatment standards, local limits, and state and local law;

(xv) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

(xvi) Any other conditions as deemed appropriate by the manager and/or the city to ensure compliance with this chapter.

(b) Where an effluent from an industrial process is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived for the discharge permit by the manager. These alternative limits shall be applied to the mixed effluent. These alternative limits shall be calculated using the combined wastestream formula and/or flow-weighted average formula given in 40 CFR 403.6(e). Where the effluent limits in a categorical pretreatment standard are expressed only in terms of mass of pollutants per unit of production (production-based standard), the manager may convert the limits to equivalent limitations expressed either as mass of pollutant that may be discharged per day or of effluent permit limitations applicable to the permittee. The permittee shall be subject to all permit limits calculated in this manner under 40 CFR 403.6(c) and must fully comply with these alternative limits. All categorical industrial users subject to production-based standards must report production rates annually so that alternative permit limits can be calculated if necessary. The categorical industrial user must notify the manager thirty (30) days in advance of any change in production levels that might effect the flow or other data used to calculate the effluent limits in the discharge permit.

(5) Permit duration. Industrial user discharge 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 120 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements identified in section 18-106 are modified or other just cause exists. The user shall be informed of any proposed changes in their permit at least thirty (30 days) prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time frame for compliance.

(6) Permit transfer. Industrial user discharge permits are issued to a specific user for a specific operation. An industrial user 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, at a minimum, a thirty-day prior notification of the change to the manager and provision of a copy of the existing permit to the new owner. The manager may deny the transfer of the permit if it is deemed necessary to comply with all provisions of this chapter.

(7) Reporting requirements for permittees. (a) Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new user, following commencement of the introduction of wastewater into the POTW, any user subject to federal categorical pretreatment standards and requirements shall submit to the manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process or processes which are limited by categorical pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such categorical standards and requirements. The report shall state whether the applicable categorical pretreatment standards and requirements are being met on a consistent basis and, if not, what additional pretreatment equipment and time schedule are necessary to bring the user into compliance with the applicable categorical standard or requirement. This statement shall be signed by an authorized representative of the user.

(b) Periodic compliance reports. (i) All significant industrial users shall submit to the manager during the months of June and December, unless required more frequently by a pretreatment standard, or the industrial user discharge permit, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards or the industrial user discharge permit. In addition, this report shall include a record of all daily flows which during the reporting period exceed the average daily flow. At the discretion of the manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the manager may agree to alter the months during which the above reports are to be submitted.

(ii) All analyses shall be performed by a laboratory acceptable to the city. Analytical procedures shall be in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR 136 and amendments thereto or with any other test procedures approved by the EPA. Sampling shall be performed in accordance with techniques approved by the EPA.

(iii) Where 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April

1977, and amendments thereto, or with any other sampling and analytical procedures approved by the EPA.

(iv) All industrial users shall retain all pretreatment records for a minimum of three (3) years, as required by 40 CFR 403.12(0)(2).

(c) Baseline monitoring reports. (i) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the city a report which contains the information listed in section 18-107(7)(c)(ii), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the city a report which contains the information listed in section 18-107(7)(c)(ii), below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(ii) The industrial user shall submit the information required by this section including:

(A) Identifying information - The name and address of the facility including the name of the operator and owners.

(B) Wastewater discharge permits - A list of any environmental control wastewater discharge permits held by or for the facility.

(C) Description of operations - A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(D) Flow measurement - Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(E) Measurement of pollutants -

(1) Identify the categorical pretreatment standards applicable to each regulated process.

(2) Submit the results on all sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the city) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 18-107(7)(b).

(3) Sampling must be performed using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the manager may authorize the use of time proportional sampling or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(4) Samples for oil and grease, temperature, PH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(F) Certification - A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis -- and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(G) Compliance schedule - If additional pretreatment and or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 18-107(2)(b)(ix).

(H) All baseline monitoring reports must be signed and certified in accordance with section 18-107(10).

(iii) All new sources of industrial discharge must be in compliance with all provisions of this chapter prior to commencement of discharge.

(d) Notification of the discharge of hazardous waste. (i) Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State Hazardous Waste Authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 10 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under section 18-107(4)(b), above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of section 18-107(7)(c), above.

(ii) Dischargers are exempt from the requirements of paragraph (i) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequently months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(iii) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(iv) In the case of any notification made under this section, the industrial user shall certify that it has a program in

place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(8) Permit violations. All significant industrial users must notify the manager within 24 hours of first becoming aware of a permit violation. This notification shall include the date of the violation, the parameter violated and the amount in exceedance. Within 30 days of first becoming aware of a permit violation, the significant industrial user must resample for the parameter(s) violated and submit this sample analysis to the manager, unless the manager, on behalf of the city, conducts monitoring of this parameter within the 30-day period.

(9) Monitoring requirements. (a) The city shall require significant industrial users to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage system. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in a public right-of-way. The manager shall review and approve the location, plans, and specifications for such monitoring facilities and may require them to be constructed to provide for the separate monitoring and sampling of industrial waste and sanitary sewage flows. 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 sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following approval of the location plans and specifications.

(b) All sampling analyses done in accordance with approved EPA procedures by the significant industrial user during a reporting period shall be submitted to the manager, regardless of whether or not that analysis was required by the user's discharge permit.

(c) The significant industrial user must receive the approval of the manager before changing the sampling point and/or monitoring facilities to be used in all required sampling.

(10) Certification statement. All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in

accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(11) Inspection and sampling. The manager shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, copying and examination of records or in the performance of their duties. "Reasonable times" shall include any time during which the user is discharging to the public sewer system and/or operating any manufacturing process. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspections, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry onto their premises, the user shall make the necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purpose of performing their specific duties.

(12) Pretreatment. (a) All significant industrial users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all applicable federal categorical pretreatment standards within the time limits as specified by the Federal Pretreatment Regulations. The city may require the development of a compliance schedule for installation of pretreatment technology and/or equipment by any significant industrial user that is not meeting discharge limits established in the user's industrial user discharge permit. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the manager for review, and shall be acceptable to the manager before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or

method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the change.

(b) The city is required by federal regulations to keep the public informed of all cases of significant violations. To accomplish this, the city shall annually publish in a newspaper of local circulation a list of the users which were in significant noncompliance with any pretreatment requirements or standards. Significant noncompliance is any significant violation that meets one or more of the following conditions:

(i) Results in the exercise of emergency authority by the manager;

(ii) Remains uncorrected 45 days after notice of noncompliance is given;

(iii) Involves failure to report noncompliance accurately;

(iv) Wastewater Violations:

(A) Chronic violations - Sixty-six (66%) percent or more of all measurements taken during a 6-month period exceed, by any magnitude, the daily maximum limit or the monthly average limit for the same pollutant parameter;

(B) Technical review criteria (TRC) Violations- Thirty-three (33%) percent or more of all measurements for each pollutant parameter taken during six-month period equal or exceed the product of the daily maximum limit or the monthly average limit multiplied by the applicable TRX (TRC = 1.4 for BOD, TSS, fats, oils and grease and 1.2 for all other pollutants except pH);

(C) Any violation of a pretreatment effluent limit that the manager believes has caused alone or in combination with other discharges, interference or pass-through or has endangered the health of the POTW personnel or the public;

(D) Any discharge causing imminent endangerment to human health or to the environment or resulting in the manager's use of this emergency authority to halt or prevent such a discharge;

(E) Violations of compliance schedule milestones failure to comply with schedule milestones for starting or completing construction or attaining final compliance by 90 days or more after the schedule date;

(F) Failure to provide required reports within 30 days of the due date;

(G) Failure to accurately report noncompliance;

(H) Any violation or group of violations which the manager determines will adversely effect the operation or implementation of the local pretreatment program. The



public notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months. All records relating to the pretreatment program of the city shall be made available to officials of the EPA or Approval Authority upon request. All records shall be maintained for a minimum of three (3) years in accordance with 40 CFR 403.12(o)(2).

(13) Confidential information. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests in writing and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available to all governmental agencies for uses related to this chapter, the NPDES Permit, and/or the pretreatment program upon request of the agency. 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 persons furnishing the report. Wastewater constituents and characteristics shall not be recognized as confidential information and shall be available to the public without restriction. (1983 code, §8-207, as replaced by Ord. #655, June 1993)

18-108. Fees. (1) Purpose. This section provides for the recovery of costs from users of the POTW for the implementation and conduct of the pretreatment program established herein. The applicable charges or fees shall be set forth in the city's schedule of charges and fees.

(2) Charges and fees. The city may adopt charges and fees which may include the following:

- (a) Fees for reimbursement of costs of setting up and operating the city's pretreatment program;
- (b) Fees for monitoring, inspections and surveillance procedures;
- (c) Fees for reviewing accidental discharge procedures and construction;
- (d) Fees for permit application;
- (e) Fees for filing appeals;
- (f) Fees for consistent removal by the POTW of excessive strength conventional pollutants;
- (g) Other fees as the city may deem necessary to carry out the requirements contained in this chapter;

(h) Fees for the connection of a discharger (residential or other). These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the city.

(i) Charges shall be comprised for a system of excessive strength surcharges and a system of charges for debt services, operation and maintenance costs including normal replacement costs. (1983 Code, §8-208, as replaced by Ord. #655, June 1993)

18-109. Powers and authority of inspectors. (1) Right to enter premises. The manager and other duly promulgated employees and representatives of the city and authorized representatives of applicable Federal and State regulatory agencies bearing proper credentials and identification shall be permitted to enter all properties at any reasonable time for purposes of, but not limited to, inspection, observation, measurement, sampling and testing of discharges to the public sewer system and inspection and copying of all records in accordance with the provisions of this chapter.

(2) Right to obtain information regarding discharge. Duly authorized employees and representatives of the city are authorized to obtain information concerning character, strength and quantity of industrial wastes which have a direct bearing on the kind and source of discharge to the wastewater collection system.

(3) Access to easements. Duly authorized employees and representatives of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement and sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(4) Safety. While performing the necessary work on private properties referred to in section 18-109(1), all duly authorized employees of the city shall observe all safety rules applicable to the premises established by the facility and the company shall be held blameless for any injury or death to the city employee. The city shall secure the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this chapter. (1983 Code, §8-209, as replaced by Ord. #655, June 1993)

18-110. Enforcement. (1) General. The city through the manager or his/her designee, to insure compliance with this chapter, may take the following enforcement steps against users in noncompliance with this chapter. The

remedies available to the manager include injunctive relief, civil and criminal penalties, immediate discontinuance of discharges and/or water service and the publishing of the list of significant violators annually. The enforcement authority shall be vested in the manager of the POTW or his/her designee.

All violations of requirements of this chapter must be reviewed and responded to by the manager or his representative. In general, the manager shall notify the industrial user when a violation occurs. For all violations, the manager shall receive an explanation and, as appropriate, a plan from the industrial user to correct the violation within a specific time period. If the violation(s) persist or the explanation and/or plan are not adequate, the manager's response shall be more formal and commitments or schedules, as appropriate, for compliance will be established in an enforceable document. The enforcement response selected will be related to the seriousness of the violation. Enforcement responses will be escalated if compliance is not achieved expeditiously after the initial action. A significant violation will require a formal enforcement action. The full scale of enforcement actions will be detailed in the city's pretreatment program enforcement response plan.

(2) Enforcement actions. (a) Informal notice - These actions include statements made to the industrial user during sampling and/or inspection visits, telephone calls to the appropriate company official, informal meetings, warning or reminder letters. These informal notices shall be used for minor violations.

(b) Formal Notice - These actions include the following:

(i) Notice of violation - Any person found to be violating any provision of this chapter, wastewater discharge permit or any order issued hereunder shall be served by the POTW manager with a written notice stating the nature of the violation. The offender must permanently cease all violations.

(ii) Administrative orders/fines - Any person who, after receiving a notice of violation, continues to discharge in violation of this chapter or other pretreatment standard or requirement or is determined to be a chronic or persistent violator, shall be ordered to appear before the manager. At said appearance, a compliance schedule will be given to the violating user and an administrative fine assessed. The fine shall be determined on a case-by-case basis which shall consider the type, severity, duration and number of violations, severity of impact on the POTW, impact on human health, user's economic benefit from the violation, past history of the user, and good-faith efforts made by the user. The fine shall be a non-arbitrary but appropriate amount.

Users desiring to dispute such fines shall file with the manager a request for the city to reconsider the fine within ten (10) days of being notified of the fine. The city shall convene a

hearing on the matter within fifteen (15) days of receiving such a request from the user.

The administrative order may take any of the following four forms:

Consent order - The manager is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified in the order. Consent orders shall have the same force and effect as all other administrative orders.

Compliance order - When the manager finds that an industrial user has violated or continues to violate this chapter or permit or order issued hereunder, he may issue an order to the industrial user responsible for the violation directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices.

Cease and desist order - When the manager finds that an industrial user has violated or continues to violate this chapter or any permit or other issued hereunder, the manager may issue an order to cease and desist all such violations to the user and direct those persons in noncompliance to:

(A) Comply forthwith;

(B) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

Show cause hearing order - The manager may issue to any user who causes or contributes to violations of this chapter, discharge permit or other issued hereunder, an order to appear and show cause why more severe enforcement action should not be taken. A notice shall be served on the user specifying the time and place of the hearing to be held by the manager 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 manager why more severe 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. Service may be made on any agent or officer of the facility. Whether or not a duly notified industrial user or its representative appears, immediate enforcement action may be pursued.

The city itself may conduct the hearing and take evidence or may designate a representative to:

(A) Issue in the name of the city notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(B) Take the evidence;

(C) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city for action thereon. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically.

The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof. After the city has reviewed the evidence, it may issue an order to the user responsible for the violation directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Further orders and directives as are necessary and appropriate may be issued. (1983 Code, §8-210, as replaced by Ord. #655, June 1993)

18-111. Penalties. (1) Written notice. Any user found to be violating any provision of this chapter or a discharge permit or order issued hereunder shall be served by the manager or his representative with written notice stating the nature of the violation. The violator shall permanently cease all violations upon receipt of this notice. As contained in section 18-110, the notice may be of several forms. Also as contained in section 18-110, penalties of various forms may be levied against users for violations of this chapter. The penalties shall range from publication of violators to fines up to \$1,000 per day per violation.

(2) Continued violation. Any user who shall violate any provision of this chapter, a discharge permit or other order issued hereunder shall be guilty of a violation of this chapter and shall be liable to the manager for a civil penalty of up to \$1,000 per violation for each day on which the violation occurs. Each day in which such violation occurs shall be deemed a separate offense.

(3) Revocation of permit. Any user violating any of the provisions of this chapter or discharge permit or other order issued hereunder shall be subject to termination of its authority to discharge sewage into the public sewer system.

Such termination shall be immediate if necessary for the protection of the POTW. Said user may also have water service terminated. Any user who violates any condition(s) of this chapter, discharge permit, order or applicable state or federal regulations is subject to having its industrial user discharge permit revoked in accordance with the procedures of this chapter. Violations resulting in immediate permit revocation shall include, but not be limited to, the following:

- (a) Failure of a user to factually report the wastewater constituents and characteristics of its discharge;
- (b) Failure of the user to report significant changes in operations, processes, wastewater constituents and characteristics;
- (c) Refusal of reasonable access to the user's premises for the purpose of inspection and sampling; and
- (d) Violation(s) of any condition of the industrial user discharge permit.

(4) Liability. Any user violating any of the provisions of this chapter, discharge permit or other order issued hereunder shall become liable to the City of Winchester for any expense, loss or damage occasioned by the city by reason of such violation. This civil liability is as provided by state and federal regulations.

(5) Misrepresentation and/or falsifying documents. Any user who knowingly and/or negligently makes any false statements, representations or certification of any application, record, reports, plan or other document filed or required pursuant to this chapter or industrial user discharge permit or who falsifies, tampers with or knowingly and/or negligently renders inaccurate any monitoring device or method required under this chapter, shall be punished by a fine of at least \$1,000 or by imprisonment for not more than twelve (12) months or by both.

(6) Destruction of POTW and legal action. No person(s) shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the POTW. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct. It shall be noted that the Clean Water Act does not require proof of specific intent to obtain conviction.

(7) Judicial action. If any person(s) discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, discharge permit, any order of the manager or the city, or federal or state pretreatment requirements, the city may commence an action for appropriate legal and/or equitable relief in the appropriate court of this jurisdiction. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person(s) found to have violated this chapter or the orders, rules, regulations and permits issued hereunder.

(8) Termination of service. The manager may suspend the wastewater treatment service and/or wastewater discharge permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of the public, the POTW or the environment. Any user notified of a suspension of the wastewater treatment service and/or the discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the manager shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. Any industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the manager.

(9) Criminal prosecution. Any industrial user who willfully or negligently violates any provisions of this chapter, any orders or permits issued hereunder, or any other pretreatment requirements shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of at least \$1,000 per violation per day or imprisonment for not more than one year or both. (1983 Code, § 8-211, as replaced by Ord. #655, June 1993)

18-112 Validity. (1) Inconsistent or conflicting ordinances. All other ordinances and parts of other ordinances which are inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict.

(2) Separation clause. The invalidity of any section, clause, sentence or provision of this chapter shall not effect the validity of any other part of this chapter which can be given effect without such invalid part of parts. (1983 Code, § 8-212, as replaced by Ord. #655, June 1993)

CHAPTER 2

CROSS CONNECTION POLICY<sup>1</sup>

SECTION

- 18-201. Definitions.
- 18-202. Compliance with Tennessee Code Annotated.
- 18-203. Regulated.
- 18-204. Permit required.
- 18-205. New installations.
- 18-206. Existing installations.
- 18-207. Inspections.
- 18-208. Right of entry for inspections.
- 18-209. Correction of violations.
- 18-210. Required devices.
- 18-211. Nonpotable supplies.
- 18-212. Statement required.
- 18-213. Fees.
- 18-214. Penalty; discontinuance of water supply.
- 18-215. Provision applicable.

18-201. Definitions. The following words, terms and phrases shall have the meanings ascribed to them in this section, when used in the interpretation and enforcement of this chapter:

(1) "Air-gap" shall mean a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved air-gap separation shall be at least twice the inside diameter of the water supply line, but in no case less than two (2") inches. Where a discharge line serves as receiver, the air-gap shall be at least twice the diameter of the discharge line, but not less than two (2") inches.

(2) "Atmospheric vacuum breaker" shall mean a device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in the water system.

(3) "Auxiliary intake" shall mean any water supply, on or available to a premise, other than that directly supplied by the public water system. These auxiliary waters may include water from another purveyor's public water system; any natural source, such as a well, spring, river, stream, and so forth; used, reclaimed or recycled waters; or industrial fluids.

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<sup>1</sup>Municipal code reference  
Plumbing and related codes: title 12.



(4) "Backflow" shall mean the undesirable reversal of the intended direction of flow in a potable water distribution system as a result of a cross connection.

(5) "Backpressure" shall mean any elevation of pressure in the downstream piping system (caused by pump, elevated tank or piping, steam and/or air pressure) above the water supply pressure at the point which would cause, or tend to cause, a reversal of the normal direction of flow.

(6) "Backsiphonage" shall mean the flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

(7) "Bypass" shall mean any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(8) "Cross connection" shall mean any physical connection or potential connection whereby the public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture 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 or backsiphonage. 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.

(9) "Double check valve assembly" shall mean an assembly of two (2) independently operating, approved check valves with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each check valve.

(10) "Double check detector assembly" shall mean an assembly of two (2) independently operating, approved check valves with an approved water meter (protected by another double check valve assembly) connected across the check valves, with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each part of the assembly.

(11) "Fire protection system" shall be classified in six different classes in accordance with AWWA Manual M14 - Second Edition 1990. The six classes are as follows:

Class 1 shall be those with direct connections from public water mains only; no pumps, tanks or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

Class 2 shall be the same as Class 1, except that booster pumps may be installed in the connections from the street mains.

Class 3 shall be those with direct connection from public water supply mains, plus one or more of the following: elevated storage tanks, fire pumps taking suction from above ground covered reservoirs or tanks, and/or pressure tanks (all storage facilities are filled from or connected to public water only, and the water in the tanks is to be maintained in a potable condition).

Class 4 shall be those with direct connection from the public water supply mains, similar to Class 1 and Class 2, with an auxiliary water supply dedicated to fire department use and available to the premises, such as an auxiliary supply located within 1700 ft. of the pumper connection.

Class 5 shall be those directly supplied from public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells; mills or other industrial water systems; or where antifreeze or other additives are used.

Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(12) "Interconnection" shall mean any system of piping or other arrangements whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water system.

(13) "Person" shall mean any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(14) "Potable water" shall mean water, which meets the criteria of the Tennessee Department of Environment and Conservation and the United States Environmental Protection Agency for human consumption.

(15) "Pressure vacuum breaker" shall mean an assembly consisting of a device containing one (1) or two (2) independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves and relief valve.

(16) "Public water supply" shall mean the Winchester Water System, which furnishes potable water to the public for general use and which is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(17) "Reduced pressure principle backflow prevention device" shall mean an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two check valves, tightly closing resilient seated shut-off valves, plus properly located resilient seated test cocks for the testing of the check valves and the relief valve.

(18) "Manager" shall mean the Manager of the Winchester Water System or his duly authorized deputy, agent or representative.

(19) "Water system" shall be considered as made up of two (2) parts, the Winchester Water System and the customer system.

(a) The Winchester Water system shall consist of the facilities for the storage and distribution of water and shall include all those facilities of the water system under the complete control of the Winchester Water system, up to the customer's side of the water meter.

(b) The customer shall include those parts of the facilities beyond the termination of the Winchester Water system distribution system that are utilized in conveying domestic water to points of use. (1983 Code, § 8-301, as replaced by Ord. #785, Aug. 2001)

18-202. Compliance with Tennessee Code Annotated. The Winchester Water System shall be responsible for the protection of the public water system from contamination or pollution due to the backflow of contaminants through the water service connection. The Winchester Water System shall comply with Section 68-221-711 of the Tennessee Code Annotated, as well as the Rules and Regulations for Public Water Systems and Drinking Water Quality, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses and interconnections; and shall establish an effective, on-going program to control these undesirable water uses. (1983 Code, § 8-302, as replaced by Ord. #785, Aug. 2001)

18-203. Regulated. (1) No water service connection to any premises shall be installed or maintained by the Winchester Water System unless the water supply system is protected as required by state laws and this policy. Service of water to any premises shall be discontinued by the Winchester Water system if a backflow prevention device required by this policy is not installed, tested, and/or maintained; or if it is found that a backflow prevention device has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

(2) 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 Environment and Conservation, and the operation of such cross

connection is at all times under the direction of the manager of the Winchester Water System.

(3) If, in the judgment of the manager or his designated agent, an approved backflow prevention device is required at the water service connection to a customer's premises, or at any point(s) within the premises, to protect the potable water supply, the manager shall compel the installation, testing and maintenance of the required backflow prevention device(s) at the customer's expense.

(4) An approved backflow prevention device shall be installed on each water service line to a customer's premises at or near the property line or immediately inside the building being served; but in all cases, before the first branch line leading off the service line.

(5) For new installations, the manager or his designated agent shall inspect the site and/or review plans in order to assess the degree of hazard and to determine the type of backflow prevention device, if any, that will be required, and to notify the owners in writing of the required device and installation criteria. All required devices shall be installed and operational prior to the initiation of water service.

(6) For existing premises, personnel from the Winchester Water System shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this policy. (1983 Code, § 8-303, as replaced by Ord. #785, Aug. 2001)

18-204. Permit required. (1983 Code, § 8-304, as replaced by Ord. #785, Aug. 2001)

18-205. New installation. No installation, alteration, or change shall be made to any backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first contacting the Winchester Water System for approval and/or payment of required fee.

An Installation/Maintenance Tag shall be installed on the device following installation and testing, and shall be removed only by personnel from the Winchester Water System at the time of inspection. One copy of the Cross-Connection Control Devices Test Report shall be submitted to the Winchester Water System upon completion of the installation and testing. (1983 Code, § 8-305, as replaced by Ord. #785, Aug. 2001)

18-206. Existing installations. No alteration, repair, testing or change shall be made of any existing backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first securing the appropriate approval and a Cross Connection Devices Test Report and an Installation/Maintenance Tag from the Winchester Water System. The installation/maintenance tag shall be installed on the device following alteration, repair and/or testing, and shall only be removed by personnel from

the Winchester Water System. (1983 Code, § 8-306, as replaced by Ord. #785, Aug. 2001)

18-207. Inspections. The manager or his designated agent 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 reinspection shall be based on potential health hazards involved, and shall be established by the Winchester Water System in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation. (1983 Code, § 8-307, as replaced by Ord. #785, Aug. 2001)

18-208. Right of entry for inspections. The manager or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Winchester Water System public water system for the purpose of inspecting the piping system therein for cross connection, auxiliary intakes, bypasses or interconnections, or for the testing of backflow prevention devices. Upon request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system(s) on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections, and shall be grounds for disconnection of water service. (1983 Code, § 8-308, as replaced by Ord. #785, Aug. 2001)

18-209. Correction of violations. (1) Any person found to have cross connections, auxiliary intakes, bypasses or interconnections in violation of the provisions of this policy shall be allowed a reasonable time within which to comply with the provisions of this policy. After a thorough investigation of the existing conditions and an appraisal of the time required to complete the work, an appropriate amount of time shall be assigned by the manager or his representative, but in no case shall the time for corrective measures exceed ninety (90) days.

(2) Where cross connections, auxiliary intakes, bypasses or interconnections are found that constitute an extreme hazard, with the immediate possibility of contaminating the public water system, the Winchester Water System shall require that immediate corrective action be taken to eliminate the threat to the public water system. Expeditious steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard is immediately corrected, subject to the right to a due process hearing upon timely request. The time allowed for preparation for a due process hearing shall be relative to the risk of hazard to the public health and may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing.

(3) The failure to correct conditions threatening the safety of the public water system as prohibited by this policy and Tennessee Code Annotated, § 68-221-711, within the time limits established by the manager or his representative, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the manager shall give the customer legal notification that water service is to be discontinued, and shall physically separate the public water system from the customer's on-site piping in such a manner that the two systems cannot again be connected by an unauthorized person, subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing. (1983 Code, § 8-309, as replaced by Ord. #785, Aug. 2001)

18-210. Required devices. (1) Where the nature of the use of water supplied to a premises by the Winchester Water System is such that it is deemed:

- (a) Impractical to provide an effective air-gap separation;
- (b) The owner/occupant of the premises cannot or is not willing to demonstrate to the Winchester Water that the water use and protective features of the plumbing are such as to pose no threat to the safety or porability of the water;
- (c) The nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;
- (d) There is likelihood that protective measures may be subverted, altered or disconnected;
- (e) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required;
- (f) The plumbing from a private well enters the premises served by the public water system, then the Winchester Water shall require the use of an approved protective device on the water service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein.

(2) The protective devices shall be of the type approved by the Tennessee Department of Environment and Conservation of the Winchester Water, as to manufacture, model, size and application. The method of installation of backflow prevention devices shall be approved by the Winchester Water prior to installation and shall comply with the criteria set forth in this policy. The installation and maintenance of backflow prevention devices shall be at the expense of the owner or occupant of the premises.

(3) Applications requiring backflow prevention devices shall include, but shall not be limited to, domestic water service and/or fire flow connections for all commercial and educational buildings, construction sites, all industrial, institutional and medical facilities, all fountains, lawn irrigation systems, wells,

water softeners and other treatment systems, swimming pools and on all fire hydrant connections other than those by the fire department in combating fires.

(a) Class 1, Class 2 and Class 3 fire protection systems shall generally require a double check valve assembly; except:

(i) A double check detector assembly shall be required where a hydrant or other point of use exists on the system; or

(ii) A reduced pressure backflow prevention device shall be required where:

(A) Underground fire sprinkler lines are parallel to and within ten (10) feet horizontally of pipes carrying sewage or significantly toxic materials;

(B) Premises have unusually complex piping systems;

(C) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(b) Class 4, Class 5 and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.

(c) Wherever the fire protection system piping is not an acceptable potable water system material, or chemicals such as foam concentrates or antifreeze additives are used, a reduced pressure backflow prevention device shall be required.

(4) The manager or his representative may require additional and/or internal backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

(5) Installation criteria. The minimum acceptable criteria for the installation of reduced pressure backflow prevention devices, double check valve assemblies or other backflow prevention devices requiring regular inspection or testing shall include the following:

(a) All devices shall be installed in accordance with the manufacturer's instructions and shall possess appropriate test cocks, fittings and caps required for the testing of the device. All fittings shall be of brass construction, unless otherwise approved by the Winchester Water, and shall permit direct connection to department test equipment.

(b) The entire device, including valves and test cocks, shall be easily accessible for testing and repair.

(c) All devices shall be placed in the upright position in a horizontal run of pipes.

(d) Device shall be protected from freezing, vandalism, mechanical abuse and from any corrosive, sticky, greasy, abrasive or other damaging environment.

(e) Reduced pressure backflow prevention devices shall be located a minimum of twelve (12") inches plus the nominal diameter of the device above either:

- (i) The floor,
  - (ii) The top of opening(s) in the enclosure or
  - (iii) Maximum flood level, whichever is higher. Maximum height above the floor surface shall not exceed sixty (60") inches.
- (f) Clearance from wall surfaces or other obstructions shall be at least six (6") inches. Devices located in non-removable enclosures shall have at least twenty-four (24") inches of clearance on each side of the device for testing and repairs.
- (g) Devices shall be positioned where a discharge from the relief port will not create undesirable conditions. The relief port must never be plugged, restricted or solidly piped to a drain.
- (h) An approved air-gap shall separate the relief port from any drainage system. An approved air-gap shall be at least twice the inside diameter of the supply line, but never less than one (1") inch.
- (i) An approved strainer shall be installed immediately upstream of the backflow prevention device, except in the case of a fire protection system.
- (j) Devices shall be located in an area free from submergence or flood potential, therefore never in a below grade pit or vault. All devices shall be adequately supported to prevent sagging.
- (k) Adequate drainage shall be provided for all devices. Reduced pressure backflow prevention devices shall be drained to the outside whenever possible.
- (l) Enclosures for outside installations shall meet the following criteria:
- (i) All enclosures for backflow prevention devices shall be as manufactured by Hydrocal or an approved equal.
  - (ii) For backflow prevention devices up to and including two (2") inches, the enclosure shall be constructed of.

#### SAMPLE SPECIFICATION

5052-H32 aluminum, or an approved equal material, with a minimum of 1.5" factory manufactured polyisocyanurate insulation in the walls and roof. For backflow prevention devices 2-1/2" and larger the enclosure shall be constructed of 5052-H32 aluminum, or an approved equal material, with a minimum of 1.5" factory manufactured polyisocyanurate insulation in the walls and 3" factory manufactured polyisocyanurate insulation in the roof.

To complete assembly, including valve stems and hand wheels, shall be protected by being inside the enclosure.

- (iii) To provide access for backflow prevention devices up to and including two (2") inches, the enclosure shall be completely removable. Access for backflow prevention devices 2-1/2" and



larger shall be provided through a minimum of two access panels. The access panels shall be of the same height as the enclosure and shall be completely removable. All access panels shall be provided with built-in locks.

(iv) The enclosure shall be mounted to a concrete pad as specified by the manufacturer, but in no case less than four (4") inches thick. The enclosure shall be constructed, assembled and/or mounted in such a manner that it will remain locked and secured to the pad even if any outside fasteners are removed. All hardware and fasteners shall be constructed of 300 series stainless steel.

(v) Heating equipment, if required, shall be designed and furnished by the manufacturer of the enclosure to maintain an interior temperature of +40<sup>0</sup> F with an outside temperature of -30<sup>0</sup> F and a wind velocity of 15 miles per hour.

(m) Where the use of water is critical to the continuance of normal operations or the protection of life, property or equipment, duplicate backflow prevention devices 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 device has been installed and the continuance of service is critical, the Winchester Water shall notify, in writing, the occupant of the premises of plans to interrupt water services and arrange for a mutually acceptable time to test the device. In such cases, the Winchester Water may require the installation of a duplicate device.

(n) The Winchester Water shall require the occupant of the premises to keep any backflow prevention devices working properly, and to make all indicated repairs promptly. Repairs shall be made by qualified personnel, possessing valid certification from the Tennessee Department of Environment and Conservation, Division of Water Supply, acceptable to the Winchester Water. Expense of such repairs shall be borne by the owner for occupant of the premises. The failure to maintain a backflow prevention device in proper working condition shall be grounds for discontinuance of water service to a premises. Likewise the removal, bypassing or alteration of a backflow prevention device or the installation thereof; so as to render a device ineffective shall constitute a violation of this policy and shall be 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 Winchester Water.

(6) (a) Testing of devices. Devices shall be tested at least annually by the Winchester Water by a qualified person possessing a valid certification from the Tennessee Department of Environment and Conservation, Division of Water Supply for the testing of such devices. A record of this test will be on file with the Winchester Water and a copy

of this report will be supplied to the customer. Water service shall not be disrupted to test a device without the knowledge of the occupant of the premises.

(b) The charge for annual testing, inspection of installation or modification will be \$25.00. (1983 Code, § 8-310, as replaced by Ord. #785, Aug. 2001)

18-211. Nonpotable supplies. The potable water supply made available to a premises served by the public water system shall be protected from contamination as specified in the provisions of this policy. Any water pipe or outlet which could be used for potable or domestic purposes and which is not supplied by the potable water system must be labeled in a conspicuous manner such as:

#### WATER UNSAFE FOR DRINKING

The minimum acceptable sign shall have black letters at least one (1") inch high located on a red background. Color coding of pipelines, in accordance with (OSHA) Occupational Safety and Health Act guidelines, shall be required in locations where in the judgment of the Winchester Water, such coding is necessary to identify and protect the potable water supply. (as added by Ord. #785, Aug. 2001)

18-212. Statement required. Any person whose premises are supplied with water from the public water system, and who also has on the same premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water is circulated through a piping system, shall file with the Winchester Water a statement of the nonexistence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses or interconnections. Such statement shall contain an agreement that no cross connections, auxiliary intakes, bypasses or interconnections will be permitted upon the premises. Such statement shall also include the location of all additional water sources utilized on the premises and how they are used. Maximum backflow protection shall be required on all public water sources supplied to the premises. (as added by Ord. #785, Aug. 2001)

18-213. Fees. A fee shall be assessed for all backflow prevention devices requiring inspection or testing. The amount of this fee shall be set and adjusted by the Winchester Water based on the recommendations of the manager to reflect the cost of providing an effective cross connection control program. The fee shall be assessed each time a device is installed, tested or inspected. Where repeated inspections are required to correct violations or deficiencies, the fee

shall be assessed each time the inspection is repeated. The fees assessed shall be as follows:

- (1) Inspection fee \$25.00. (as added by Ord. #785, Aug. 2001)

18-214. Penalty; discontinuance of water supply. (1) Any person who neglects or refuses to comply with any of the provisions of this policy may be deemed guilty of a misdemeanor and subject to be fined \$50.00 dollars each day of continued violation.

- (2) Independent of and in addition to any fines or penalties imposed, the manager may discontinue the public water supply service to any premises upon which there is found to be a cross connection, auxiliary intake, bypass or interconnection; and service shall not be restored until such cross connection, auxiliary intake, bypass or interconnection has been eliminated. (as added by Ord. #785, Aug. 2001)

18-215. Provision applicable. The requirements contained in this policy shall apply to all premises served by the Winchester Water System and are hereby made part of the conditions required to be met for the Winchester Water System to provide water services to any premises. The provisions of this policy shall be rigidly enforced since it is essential for the protection of the public water distribution system against the entrance of contamination. Any person aggrieved by the action of the policy is entitled to a due process hearing upon timely request. (as added by Ord. #785, Aug. 2001)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY

SECTION

19-101. To be furnished by Board of Public Utilities.

19-101. To be furnished by Board of Public Utilities. Electricity shall be provided to the City of Winchester and its inhabitants by the Board of Public Utilities.<sup>1</sup>

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<sup>1</sup>Private Act reference

The Board of Public Utilities, was established pursuant to Priv. Acts 1953, ch. 404. This act, as amended is reproduced in full in the charter section of this municipal code, immediately following the text of the charter.

CHAPTER 2

GAS

**RESERVED FOR FUTURE USE**

## TITLE 20

MISCELLANEOUS

## CHAPTER

1. WINCHESTER LEASED HOUSING CORPORATION.
2. MUNICIPAL AIRPORT AUTHORITY.
3. FALSE ALARMS ORDINANCE.
4. HUNTING.
5. DEPARTMENT OF PLANNING.

## CHAPTER 1

WINCHESTER LEASED HOUSING CORPORATION

## SECTION

- 20-101. Establishment and purpose.
- 20-102. Confirmation and ratification of acts of the corporation.
- 20-103. Bonds of corporation not to be a city debt.
- 20-104. Acceptance of deed of gift.

20-101. Establishment and purpose. It is hereby necessary and proper to authorize the creation of a non-stock, not for profit corporation as an instrumentality of the City of Winchester, Tennessee known as the Winchester Leased Housing Corporation, for the purpose of constructing and financing low cost rent supplement facilities to be leased to the Winchester Housing Authority with the assistance of the federal government, and the proposed charter of incorporation and by-laws of said corporation are hereby approved. (1983 Code, § 1-701)

20-102. Confirmation and ratification of acts of the corporation. The form and content of the agreement to lease with attached form of lease agreement by and between the corporation and the Winchester Housing Authority, the indenture by and between the corporation and Commerce Union Bank, Nashville, Tennessee, and the bond resolution of the board of directors of the corporation, the sale of the bonds and the terms and conditions thereof contained in the bond resolution, and the prior action of the Winchester Leased Housing Corporation including amendment of its corporate name as an agency and instrumentality of the City of Winchester are hereby ratified and confirmed. (1983 Code, § 1-702)

20-103. Bonds of corporation not to be a city debt. The bonds of the Winchester Leased Housing Corporation shall not constitute a debt of the City

of Winchester or the Winchester Housing Authority within the meaning of the Constitution and laws of the State of Tennessee. (1983 Code, § 703)

20-104. Acceptance of deed of gift. The City of Winchester hereby accepts the grant of rights contained in the form of deed of gifts and accepts a present and remainder interest in the realty described therein as improved. (1983 Code, § 1-704)

## CHAPTER 2

MUNICIPAL AIRPORT AUTHORITY

## SECTION

20-201. Establishment; organization.

20-202. Purpose.

20-203. Authority and duties.

20-204. Meetings; budget.

20-205. Duties, powers and limitations.

20-201. Establishment; organization. There is created and established the Winchester Municipal Airport Authority to be composed of seven (7) persons to serve as its commissioners who shall be elected by the city council to serve without compensation. The term of office for said commissioners shall be five (5) years, or until their respective successors are appointed and qualified, except that the commissioners first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively. Vacancies occurring otherwise than at the expiration of terms shall be filled for the unexpired term in the same manner as the original appointments. The city council may by majority vote remove any commissioner at any time, solely in the discretion of the city council.

The commissioners thus elected shall immediately apply for a Certificate of Incorporation from the Secretary of State. Upon the receipt of a certificate of incorporation, the commissioners shall elect a chairman and vice chairman from their number and adopt suitable by-laws for the management of the affairs of the authority. (1983 Code, § 1-801, amended by Ord. #686, May 1995)

20-202. Purpose. The purposes of the Winchester Municipal Airport Authority are to plan and promote the orderly development of air terminals and aviation facilities to serve the City of Winchester for air commerce, trade, industry, and other purposes; and to protect the competitive position of the City of Winchester against other air terminals, municipalities or localities in any suit, action or proceeding affecting the trade or commerce thereof. (1983 Code, § 1-802)

20-203. Authority and duties. The Winchester Municipal Airport Authority shall have the power and authority to make contracts and leases with persons operating airplanes and airlines for the use of the Winchester Municipal Airport and its facilities, for space in buildings and hangars, and for services; to make contracts and leases with the State of Tennessee in regard to facilities; to make contracts and leases with the Federal Government or any agency thereof; to make contracts and leases for the sale of gasoline, oil and other products for the operation of airplanes; and generally to make any and



all necessary contracts and leases for the use of the airport and appurtenances thereto; provided, however, that all leases entered into by the Winchester Municipal Airport Authority for services or facilities at the Winchester Municipal Airport shall be subject to the approval of the city council of the City of Winchester; and provided further that whenever any real estate under the jurisdiction of the Winchester Municipal Airport Authority is to be sold or any additional real estate is proposed to be acquired, the same shall be sold or acquired in the same manner the city would otherwise buy or sell real estate. (1983 Code, § 1-803)

20-204. Meetings; budget. The Winchester Municipal Airport Authority shall hold its meetings open to the public and keep a minute record of all its transactions, and said minutes shall at all times be available to the city council. Said authority shall submit a recommended annual budget to the city council on or before the 1st day of June of each calendar year. The city council will consider its recommendation along with other items of its general budget and notify the authority as to the approved budget for its annual operation. Said authority shall submit monthly financial reports to the city council. Said authority shall not be authorized to incur any financial obligation on behalf of the City of Winchester without a resolution authorizing the same, duly adopted by the city council. The Airport Authority shall be required to operate within the budget approved by the city council. (1983 Code, § 1-804)

20-205. Duties, powers and limitations. Except as otherwise provided herein, it is the intention of this chapter to confer upon the Winchester Municipal Airport Authority all those duties, powers and limitations anticipated in Tennessee Code Annotated §§ 42-3-101 through 42-3-205, as amended. (1983 Code, § 1-805)

## CHAPTER 3

FALSE ALARMS ORDINANCE

## SECTION

20-301. Definitions.

20-302. Response to alarms.

20-303. Excessive false alarms and fee assessment.

20-304. Appeal of false alarm.

20-301. Definitions. For the purpose of this chapter, certain words and phrases shall be defined as herein set forth:

(1) "Subscriber" is any person, firm, corporation, partnership or entity who or which purchases, leases, contracts for, or obtains an alarm system.

(2) "Alarm system" means any mechanical or electrical device that is arranged, designed, or used to signal the occurrence in the City of Winchester of a burglary, robbery, or other criminal offense, fire emergency or medical emergency requiring urgent attention, and to which police, fire, or emergency medical personnel are expected to respond. Alarm systems include those through which public safety personnel are notified directly of such signals through automatic recording devices or are notified indirectly by way of third persons who monitor the alarm systems and who report such signals to the fire or police department. Alarm systems also invisible, or in other ways perceptible outside a protected building structure or facility as to notify persons in the neighborhood beyond the zoning lot where the signal is located who in turn may notify the police or fire department of the signal. Alarm systems do not include those affixed to automobiles; furthermore, alarm systems do not include auxiliary devices installed by telephone companies to protect telephone equipment or systems which might be damaged or disrupted by the use of an alarm system. Alarms in separate structures are to be counted as separate systems even though owned by same person or entity.

(3) "False alarm" means an alarm signal eliciting a response by the police or fire department when a situation requiring a response by the police or fire department does not in fact exist. False alarm does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business operator or alarm user. Alarms resulting from the following conditions are not considered false alarms:

- (a) Criminal activity or unauthorized entry.
- (b) Earthquake causing structural damage to the protected premises.
- (c) High winds sufficient to activate motion detection system or causing physical damage to the protected premises.

- (d) Flooding of the protected premises due to overflow of natural drainage.
- (e) Lightning bolt causing physical damage to the protected premises.
- (f) Telephone line malfunction verified in writing to the City by at least a first line telephone company supervisor.
- (g) Electrical service interruption verified in writing to the department by local power company.
- (h) Communication to the police or fire department before a unit is dispatched to investigate clearly indicating that the alarm resulting from authorized entry, authorized system test, or other non-criminal cause.
- (i) An alarm caused on the reasonable but mistaken belief that a burglary, robbery, or other criminal offense, fire emergency, or medical emergency is in progress.
- (j) The generation of a false alarm which is beyond the reasonable control of the system user. (Ord. #703, April 1996)

20-302. Response to alarms. (1) Whenever an alarm is activated in the City of Winchester thereby requiring an emergency response to the location by the police or fire department and the police or fire department does respond, the police or fire department personnel on the scene of the activated alarm system shall inspect the area protected by the system and shall determine whether the emergency response was in fact required as indicated by the alarm system or whether the alarm system was a false alarm.

(2) If the police or fire department personnel at the scene of the activated alarm system determines the alarm to be false, said officers shall make a report of the false alarm, a notification of which shall be mailed or delivered to the alarm user at the address of said alarm system installation location, advising the alarm user of the false alarm.

(3) The city's fire inspector or building inspector shall have the right to inspect any alarm system on the premises to which a response has been made, and he may cause an inspection of such system to be made at any reasonable time thereafter. (Ord. #703, April 1996)

20-303. Excessive false alarms and fee assessment. (1) If any alarm system produces four (4) false alarms in any calendar year, the public safety director shall provide written notice of the fact, which shall be given by certified mail or delivery to the subscriber asking the subscriber to take corrective action in regard to false alarms and informing subscriber of the false alarm fee schedule provided herein.

(2) Subscribers installing a new system or making substantial modifications to an existing system shall be entitled to a grace period during which alarms generated by such system shall be deemed no-false alarms. The

grace period shall cease thirty (30) days after installation of or modification to an alarm system.

(3) A false alarm beyond four (4) in any calendar year will be considered as excessive and will be assessed a fee as set by the city council of Winchester. Said fee will be reviewed and adjusted if needed by a favorable vote of the city council when presented as an agenda item at any meeting of the Winchester governing body.

All fees assessed must be paid to the City of Winchester or a written appeal must be submitted to the city administrator within three (3) days of fee assessment. (Ord. #703, April 1996)

20-304. Appeal of false alarm. (1) Any subscriber who has been notified of a false alarm or assessed a false alarm fee may appeal to the city administrator by giving written notice and posting a bond equal to the amount of fee, if applicable, within three (3) days of the invoice assessing such fee. Upon receipt of the appeal notice and bond, if applicable, a certain time shall be set for a hearing.

(2) The appellant shall be given reasonable notice of such hearing, failure of the appellant to appear at such hearing shall, if applicable, result in forfeiture of the appeal bond, and application of such bond toward the false alarm fee assessed by the city.

(3) The city administrator or his designee shall serve as hearing officer, the burden of proof shall be upon the appellant to show by a preponderance of the evidence that the alarm signal in question was not a false alarm.

(4) After receipt of all relevant evidence, the hearing officer shall, within three (3) days, render his decision. If the hearing officer determines that the appellant has met the burden of proof, then he shall order the appeal bond released to the appellant and/or rescind the false alarm determination. If the hearing officer determines that the appellant has not met the burden of proof, then he shall order the appeal bond be forfeited and applied toward the alarm fee as assessed by the city and/or enter such alarm as a false alarm.

(5) All decisions made pursuant to this chapter are final. (Ord. #703, April 1996)

## CHAPTER 4

HUNTING

## SECTION

## 20-401. Guidelines and restrictions.

20-401. Guidelines and restrictions. Hunting is allowed on pre-approved properties and the following guidelines and restrictions are adopted and implemented regarding hunting and for public safety of the citizens of Winchester:

(1) Hunting will only be allowed with written permission of the landowner, which the hunter must carry and show to a police officer, if contacted.

(2) Hunting will only be allowed in those areas of land consisting of 25 (twenty-five) acres or more and by advance approval given to the land owner through a resolution adopted by the mayor and city council, and such areas be clearly marked on a map displayed in the Winchester Police Department.

(3) Each hunter must follow all state and federal hunting regulations.

(4) The only allowable hunting weapon shall be a legal gauged shotgun.

(5) No shot pellet larger than four (4) will be allowed.

(6) In no case will hunting be allowed within 300 feet of the airport, any building or inhabited structure, a paved roadway, or a city park. Also, hunting will not be allowed within 300 feet of any adjacent property line unless:

(a) The adjacent property owner has received permission for hunting on his property, or

(b) The adjacent property owner gives permission in writing to the landowner seeking permission.

(c) The adjacent property is not within the city limits.

(7) All hunters under the age of 18 shall be accompanied by a responsible adult 18 years or older.

(8) Any hunter requested to do so by a police officer shall show the officer the written permission and a copy of these rules which shall be carried with the hunter when the hunter is hunting within the city limits.

(9) Hunting will only be allowed within the city limits of Winchester on undeveloped parcels of land of twenty-five (25) continuous acres or larger. In order for a parcel to qualify to be placed in a hunting zone, the landowner(s), or their duly authorized agent and attorney in fact, must petition the city council for a resolution by the council to approve said parcel for hunting. A registry shall be kept by the appropriate city official concerning each parcel approved, said registry to include whatever date the city from time to time deems necessary for proper record keeping.

(10) Any land owner who seeks to have his property approved for a hunting zone, in his petition or application to the city must agree that he will indemnify and hold harmless the city from all losses, court costs, legal expenses, etc., arising out of any claim for personal injuries or damages by any persons for occurrences upon landowner's property. (Ord. #743, Nov. 1998)

**CHAPTER 5**

**DEPARTMENT OF PLANNING**

**SECTION**

20-501. Department of planning established.

**20-501. Department of planning established.** A department of planning is hereby established and shall be staffed, funded and recognized as a department of the City of Winchester and be allowed to function in the same manner as all other recognized departments presently existing in Winchester city government. (as added by Ord. #778, April 2001)

ORDINANCE NO. 648

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

WHEREAS some of the ordinances of the City of Winchester are obsolete, and

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

WHEREAS the City Council of the City of Winchester, 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 "Winchester Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINCHESTER, TENNESSEE:

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

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing or authorizing the establishment of a social security system or providing or changing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named



public street or way; any right or franchise granted by the city; 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 city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified, 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.<sup>1</sup>

Each day any violation of the municipal code continues shall constitute a separate offense.

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<sup>1</sup>State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated § 40-24-101 et seq.

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 governing body, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.


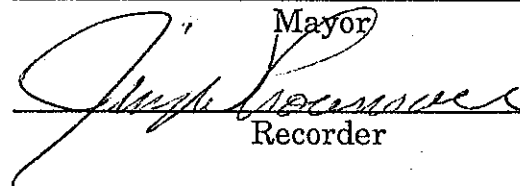
Section 9. Code available for public use. A copy of the municipal code shall be kept available in the city clerk's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect twenty (20) days after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading 1-26, 1993.

Passed 2nd reading 2-9, 1993.

Passed 3rd reading 3-9, 1993.

  
\_\_\_\_\_  
Mayor  
  
\_\_\_\_\_  
Recorder

ORDINANCE NO. 651

AN ORDINANCE TO RATIFY ORDINANCE NO. 648, ADOPTED MARCH 9, 1993, AND TO PROVIDE FOR A PUBLIC HEARING PRIOR TO ADOPTING AN UPDATE TO THE MUNICIPAL CODE FOR WINCHESTER, TENNESSEE.

WHEREAS, Tennessee Code Annotated, §6-54-508 requires that a public hearing be held prior to the adoption of a code of ordinances and, further requires advance notice of the hearing; and

WHEREAS, Ordinance No. 648, passed on third reading on March 9, 1993, was finally passed before notice of a public hearing was given; and

WHEREAS, the City Council of the City of Winchester desires that a notice of a public hearing be given and a public hearing be held and, further desires to ratify Ordinance No. 648, which adopts a new municipal code for the City of Winchester, Tennessee.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINCHESTER, TENNESSEE:

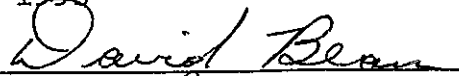
Section 1. Prior to the final passage of this ordinance, the City Administrator shall provide notice in a newspaper of general circulation that a public hearing will be held to consider the adoption of a municipal code of ordinances and, cause such a public hearing to be held.

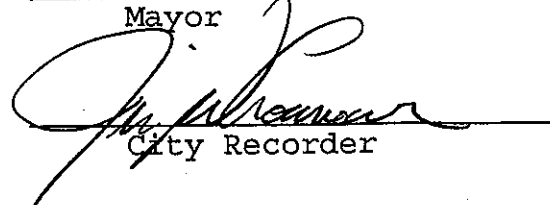
Section 2. Ordinance No. 648 is hereby ratified in all respects and, upon final passage of this ordinance, will have full force and effect.

Section 3. Upon final passage of this ordinance, notice that a code of ordinances has been passed and, is on file in the city recorder's office, will be published in a newspaper of general circulation.

Section 4. This ordinance shall take effect from and after its final passage the public welfare demanding it.

Passed 1st reading April 13, 1993  
Passed 2nd reading April 27, 1993  
Passed 3rd reading May 11, 1993

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Recorder