

THE  
WHITWELL  
MUNICIPAL  
CODE

Prepared by the  
MUNICIPAL TECHNICAL ADVISORY SERVICE  
INSTITUTE FOR PUBLIC SERVICE  
THE UNIVERSITY OF TENNESSEE

in cooperation with the  
TENNESSEE MUNICIPAL LEAGUE

September 1994

Change 5, March 3, 2005

CITY OF WHITWELL, TENNESSEE

MAYOR

Stuart Morrison

VICE MAYOR

Jim Nunlay

CITY COMMISSIONERS

Paul Atterton  
Jerry McCurry  
M. Shorty Tucker

CITY MANAGER

Jim Troyer

RECORDER

Robin Nipper

## Preface

The Whitwell Municipal Code contains the codification and revision of the ordinances of the City of Whitwell, 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 substantial 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 for the code).

- (2) That one copy of every ordinance adopted by the city is furnished to MTAS immediately after its adoption (see section 8 of the adopting ordinance).

(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).

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

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

Andre Coure  
Codification Specialist

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY  
CHARTER

1. General power to enact ordinances: (See section 6-1901 of the charter)
2. All ordinances shall begin, "Be it ordained by the City of Whitwell as follows:" (See section 6-2025 of the charter)
3. Ordinance procedure
  - (a) Every ordinance shall be read on three (3) different days in open session before its adoption and not less than one (1) week shall elapse between first and third readings, and any ordinance not so read shall be null and void.
  - (b) An ordinance shall not take effect until fifteen (15) days thereof, except in case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage, provided it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency.
  - (c) The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.
  - (d) 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. No ordinance shall be amended except by a new ordinance. (See section 6-2026 of the charter)
4. Every ordinance shall be immediately taken charge of by the recorder and by him numbered, copied in an ordinance book, filed and preserved in his office. (See section 6-2028 of the charter)

All ordinances of a penal nature passed shall be published at least once in the official newspaper of the city or county, and no such ordinance shall be in force until it is published. (See section 6-2029 of the charter)

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF WHITWELL, TENNESSEE.

WHEREAS some of the ordinances of the City of Whitwell are obsolete, and

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

WHEREAS the Board of Commissioners of the City of Whitwell, 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 "Whitwell Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF WHITWELL, AS FOLLOWS:

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

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the

city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified, wherever in the municipal code, including the codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in the municipal code the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of the municipal code shall be punishable by a penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law.

When any person is fined for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.<sup>1</sup>

Each day any violation of the municipal code continues shall constitute a separate offense.

---

<sup>1</sup>State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, section 40-24-101 et seq.

Section 6. Code as evidence. Any printed copy of the municipal code certified under the signature of the recorder shall be held to be a true and correct copy of such codification and may be read in evidence in any court without further proof of the provisions contained therein.

Section 7. 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 8. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of commissioners, 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 9. 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 10. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 11. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading April 27, 1995.

Passed 2nd reading May 18, 1995.

Passed 3rd reading July 20, 1995.

David Batty  
Mayor

VACANT - 8/4/95/caw  
Recorder

TITLE 1

GENERAL ADMINISTRATION<sup>1</sup>

CHAPTER

1. BOARD OF COMMISSIONERS.
2. MAYOR.
3. CITY MANAGER.
4. RECORDER.

CHAPTER 1

BOARD OF COMMISSIONERS

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Ordinance procedure.

1-101. Time and place of regular meetings. The board of commissioners shall hold regular monthly meetings at 6:00 P.M. on the first and third Thursday of each month at the Whitwell City Hall. (as amended by Ord. #217, Feb. 2001, and Ord. #249, March 2005)

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

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder, and approval or correction.
- (4) Communications from the city manager.

---

<sup>1</sup>Charter reference

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: see title 12.

Fire department: see title 7.

Electricity and Gas: see title 19.

Wastewater treatment: see title 18.

Zoning: see title 14.

- (5) Reports from committees, members of the board of commissioners, and other officers.
- (6) Old business.
- (7) New business.
- (8) Grievances from citizens.
- (9) Adjournment.

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 board of commissioners 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.

1-104. Ordinance procedure. (1) Every ordinance shall be read on three (3) different days in open session before its adoption and not less than one (1) week shall elapse between first and third readings, and any ordinance not so read shall be null and void.

An ordinance shall not take effect until fifteen (15) days thereof, except in case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage, provided it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency.

The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.

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. No ordinance shall be amended except by a new ordinance.

(2) Every ordinance shall be immediately taken charge of by the recorder and by him numbered, copied in an ordinance book, filed and preserved in his office.

(3) All ordinances of a penal nature passed shall be published at least once in the official newspaper of the city or county, and no such ordinance shall be in force until it is published.<sup>1</sup>

---

<sup>1</sup>Charter reference

See sections 6-2026, 6-2028, 6-2029 of charter outlining ordinance procedure. Section 1-104 is identical to the charter provisions.

## CHAPTER 2

MAYOR<sup>1</sup>

## SECTION

## 1-201. Duties and powers.

1-201. Duties and powers. The mayor shall preside at all meetings of the board of commissioners, sign the journal of the board and all ordinances on their final passage, execute all deeds, bonds, and contracts made in the name of the city, and perform all acts that may be required of him by the charter, and any ordinances duly enacted by the board of commissioners, consistent with the charter.

---

<sup>1</sup>Charter reference

For general charter provisions dealing with the election and duties of the mayor and vice mayor, see chapter 20, of the Whitwell Charter.

## CHAPTER 3

CITY MANAGER<sup>1</sup>

## SECTION

## 1-301. Duties and powers.

1-301. Duties and powers. The city manager shall be the chief administrative officer of the city and shall exercise such authority and control over law and ordinance violations, departments, officers and employees, and city purchases and expenditures as the charter prescribes, and shall perform all other duties required of him pursuant to the charter.

---

<sup>1</sup>Charter reference

For charter provisions outlining the appointment and removal of the city manager, see chapter 21, of the Whitwell Charter.

## CHAPTER 4

RECORDER<sup>1</sup>

## SECTION

1-401. To keep minutes, etc.

1-402. To perform general administrative duties, etc.

1-401. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of commissioners and shall preserve the original copy of all ordinances in a separate ordinance book.

1-402. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of commissioners, the city manager, and for the city which are assigned to him. The recorder shall also have custody of, and be responsible for, maintaining all corporate bonds, records, and papers of the city.

---

<sup>1</sup>Charter references

For charter provisions outlining the duties and powers of the recorder, see section 6-2201. Where the recorder may also serve as the treasurer, see section 6-2220, of the Whitwell Charter.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

**[RESERVED FOR FUTURE USE]**

## TITLE 3

MUNICIPAL COURT<sup>1</sup>

## CHAPTER

## 1. CITY COURT.

## CHAPTER 1

CITY COURT<sup>2</sup>

## SECTION

3-101. City judge.

3-102. Jurisdiction.

3-103. Maintenance of docket.

3-104. Issuance of arrest warrants.

3-105. Issuance of summonses.

3-106. Issuance of subpoenas.

3-107. Appearance bonds authorized.

3-108. Disposition and report of fines, penalties, and costs.

3-109. Disturbance of proceedings.

3-110. Fines and penalties.

3-101. City judge. Pursuant to Tennessee Code Annotated, § 16-18-102, the office of city judge is established. The city judge shall be vested with the judicial powers and functions of the city recorder and shall be subject to the provisions of law and the city charter governing the recorder's court presided over by the city recorder.

(1) Appointment and term. The city judge designated by the charter to handle judicial matters within the city shall be appointed by the board of commissioners and shall serve at the pleasure of the board of commissioners. Vacancies in the office of the city judge arising from resignation, disqualification or for any other reason whatsoever, shall be filled for the unexpired term by the board of commissioners.

---

<sup>1</sup>State law reference

See section 17-17-101 et seq., Tennessee Code Annotated, for provisions regarding city courts in Home Rule Municipalities.

<sup>2</sup>Charter reference

See section 6-2119 et seq, for judicial functions of recorder, appeal from judgement, etc.

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

(3) Oath of office; bond. The city judge shall take the oath of office prescribed in § 6-2103 of the city charter and shall be bonded before entering upon the duties of this office. The cost of making the bond shall be paid by the City of Whitwell.

(4) Salary. The salary of the city judge shall be fixed by the board of commissioners before the city judge's appointment and shall not be altered during the city judge's term of service.

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

3-102. Jurisdiction. The city judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty not to exceed \$500.

3-103. 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. The duties provided in this section may be delegated by the city judge to a court magistrate.

3-104. Issuance of arrest warrants. The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances.

3-105. Issuance of summonses.<sup>1</sup> 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 municipal code or ordinance alleged to have been violated. Upon failure of any

---

<sup>1</sup>Municipal code references

Issuance of citations in lieu of arrest by public officer in traffic cases: see title 15, chapter 7.

person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal.

3-106. 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.

3-107. Appearance bonds authorized.<sup>1</sup> (1) Posting bond. Whenever a person is arrested for the violation of any city ordinance in the presence of a police officer and no warrant has been issued or served, he may execute an appearance bond in an amount not exceeding five hundred dollars (\$500.00), and file same with a police desk sergeant, or he may, in lieu of the execution of an appearance bond, deposit a sum not exceeding five hundred dollars (\$500.00), with a police desk sergeant and be given a receipt for same, and on the appearance of such person before the city court at the time specified in said receipt such deposit shall be returned to him, but on the failure of such person to appear at the time specified the amount so deposited shall be forfeited to the municipality and he shall not be entitled to the return of any part thereof and it shall not be necessary to issue a scire facias; provided, however, that within two (2) days of the imposition of the forfeiture the city recorder shall have the power to set aside the conditional judgment imposing such forfeiture when it shall be made to appear that the failure of the accused to appear and defend his suit was due to no fault or negligence of the accused. After the expiration of two (2) days, there may be a final judgment imposing a forfeiture.

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

(3) Failure to appear. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the town court accepting the license shall forward the same to the Tennessee Department of Safety for

---

<sup>1</sup>Charter reference

See also section 6-2123 of charter for authority to execute appearance bond.

disposition by said department in accordance with provisions of Tennessee Code Annotated, section 55-7-401 et seq.

3-108. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the board of commissioners a report accounting for the collection or non-collection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year.

3-109. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever.

3-110. Fines and penalties. All fines and penalties imposed by judicial officers for violation of the municipal ordinances of this city shall be. Any offense that is a state offense, the range of punishment will be governed by T.C.A. (Tennessee Code Annotated). Any municipal offenses could range between \$0.00 and \$50.00 dollars and no more than 30 days in jail. (Ord. #213, § 1, Dec. 1999)

## TITLE 4

MUNICIPAL PERSONNEL

## CHAPTER

## 1. SOCIAL SECURITY.

## 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. Exemption from coverage.

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.

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.

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.

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.

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.

4-106. Exemption from coverage. There is hereby exempted from this chapter any authority to make any agreement with respect to any position, any employee or official not authorized to be covered by applicable state and federal laws or regulations.

## TITLE 5

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

## CHAPTER

1. MISCELLANEOUS.
2. REAL AND PERSONAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. PURCHASING.

## CHAPTER 1

MISCELLANEOUS

## SECTION

- 5-101. Official depository for city funds.
- 5-102. Fiscal year of the city.
- 5-103. Checks to be countersigned.
- 5-104. City officials to post bond.
- 5-105. Expenditures.

5-101. Official depository for city funds. All banks in the city limits are hereby designated as the official depository for all city funds. (Ord. # 1, Dec. `56, modified)

5-102. Fiscal year of the city. The fiscal year of the city shall be from the 1st day of July to the 30th day of June of the year next following.

5-103. Checks to be countersigned. All checks drawn upon the bank account of the city in said depository shall be signed by the recorder, and shall be countersigned by the mayor of the said municipality. In the absence of the mayor, or if for any reason he is not available to sign checks, they may be countersigned by the vice-mayor of the city, or any other designated commissioner. (Ord. # 1, Dec. `56, modified)

5-104. City officials to post bond. The city manager, recorder, treasurer, and any other officers, agent or employee, having duties embracing the receipt, disbursement, custody or handling of money shall, before entering upon his duties, execute a fidelity bond with some corporate surety authorized to do

---

<sup>1</sup>Charter reference

Finance and taxation: see section 6-2201 et seq.

business, as a surety, in the State of Tennessee. The amounts of said bonds shall be as follows:

|              |    |  |
|--------------|----|--|
| City Manager |    | \$1,000.00   |
| Recorder     |    | \$5,000.00   |
| Treasurer    |    | \$5,000.00   |
| All others   | -- | Such bond as shall be fixed by<br>the City Manager but not less<br>than \$1,000.00 |

Whenever one person holds more than one office a single bond covering the duties of both offices in the amount of the larger bond specified above shall be sufficient. Any official bonded hereunder, may be required to increase his bond to whatever amount the Board of Commissioners deems necessary for the protection of the municipality whenever, in the discretion of the Board of Commissioners, such action is necessary. (Ord. # 3, Dec. `56)

5-105. Expenditures. The city manager may make any purchase or expenditure provided said expenditure does not exceed \$500.00, without the approval of the Board of Commissioners. (Ord. # 177, Dec. `86)

## CHAPTER 2

REAL AND PERSONAL PROPERTY TAXES

## SECTION

5-201. When due and payable.

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

5-201. When due and payable.<sup>1</sup> Taxes levied by the city against real and personal property shall become due and payable annually on the first day of November of the year for which levied.

5-202. When delinquent--penalty and interest. All real property taxes shall become delinquent on and after the first day of March next after they become due and payable, and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the charter for delinquent county real property taxes.<sup>2</sup>

---

<sup>1</sup>Charter references

See section 6-2211 setting the last due date as November 1 of the year for which the taxes are assessed, but see sections 6-2211 and 6-2213 wwhich provide that a different tax due date may be set by ordinance (with a unanimous veto of the board of commissioners.)

<sup>2</sup>State law reference

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

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

## CHAPTER 3

PRIVILEGE TAXES

## SECTION

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, title 67, chapter 58) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act.

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

## CHAPTER 4

WHOLESALE BEER TAX

## SECTION

5-401. To be collected.

5-401. To be collected. The city manager 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>

---

<sup>1</sup>State law reference

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

## CHAPTER 5

PURCHASING

## SECTION

- 5-501. Purchasing agent.
- 5-502. General procedures.
- 5-503. Rejection of bids.
- 5-504. Conflict of interest.
- 5-505. Purchases from employees.
- 5-506. Sealed bid requirements.
- 5-507. Competitive bidding.
- 5-508. Purchases and contracts less than \$1,000.
- 5-509. Bid deposit.
- 5-510. Performance bond.
- 5-511. Record of bids.
- 5-512. Considerations in determining bid award.
- 5-513. Statement when award not given low bidder.
- 5-514. Award in case of tie bids.
- 5-515. Back orders.
- 5-516. Emergency purchases.
- 5-517. Waiver of competitive bidding.
- 5-518. Property control.
- 5-519. Disposal of surplus property.
- 5-520. Employees participating in disposal of surplus property.
- 5-521. Items consumed in the course of work or items thought to be worthless.
- 5-522. Items estimated to have monetary value.
- 5-523. Surplus property painted with city colors or with city emblems.
- 5-524. Definitions.

5-501. Purchasing agent. The city manager shall be the purchasing agent for the city. Except at otherwise provided by this chapter, all supplies, materials, equipment, and services of any nature whatsoever shall be acquired by the purchasing agent or his authorized representative. (as added by Ord. #210, § 1, Sept. 1999)

5-502. General procedure. Competitive bids on all supplies, material lists, equipment, services, and contracts for public improvements, except those specified elsewhere in this chapter, shall be obtained, whenever practicable, and the purchase or contract awarded to the lowest responsible bidder, provided that any or all bids may be rejected as prescribed by this policy. (as added by Ord. #210, § 1, Sept. 1999)

5-503. Rejection of bids. The purchasing agent shall have the authority to reject any and all bids, parts of all bids, or all bids for any one 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, license fees, or other monies of whatever nature that may be due the city by said vendor or contractor. (as added by Ord. #210, § 1, Sept. 1999)

5-504. 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 Whitwell, and shall not engage in or participate in any commercial transaction involving the city, in which they have a significant financial interest. (as added by Ord. #210, § 1, Sept. 1999)

5-505. Purchasing from employees. It shall be the policy of the city not to purchase any goods or services from any employee or close relative of any employee without prior approval of the city manager. (as added by Ord. #210, § 1, Sept. 1999)

5-506. Sealed bid requirements. (1) On all purchases and contracts in excess of \$1,000, except as otherwise provided for in this code, formal sealed bids shall be required to be submitted at a specified time and place to the purchasing agent. The purchasing agent shall submit the bids for award by the city commission at the next regularly scheduled commission meeting or special called commission meeting together with the recommendation as to the lowest responsible bidder.

(2) Notice inviting bids shall be published once in a newspaper of general circulation in Marion County, and at least (5) days preceding the last day of the receipt of bids. The newspaper notice shall contain a general description of the articles to be purchased, shall state where the written specifications may be secured, and the time and place for opening bids.

(3) In addition to publication in a newspaper, the purchasing agent may take any other actions deemed appropriate to notify all prospective bidders of the invitation to bid. This may be accomplished by delivery, verbally, by mail, or posting in a public place. (as added by Ord. #210, § 1, Sept. 1999)

5-507. Competitive bidding. (1) All purchases of supplies, equipment, services and contracts estimated to be in excess of \$1,000 shall be by competitive bidding and may be awarded to the lowest responsible bidder. A written record shall be required and available for direct mail, telephone bids, or public notice. Such bids shall be received by the purchasing agent who shall award the bid to the lowest responsible bidder.

(2) The city recorder shall verify account balances, prior to purchasing agent approval, for all purchases over one thousand dollars.

(3) In the purchasing agent's absence, the city recorder shall approve the bid.

(4) Nothing in these policies shall require the city commission to sell or purchase real property by competitive bidding. All such purchases shall be approved by a majority vote of the city commission. (as added by Ord. #210, § 1, Sept. 1999)

5-508. Purchases and contracts less than \$1,000. The purchasing agent is expected to obtain the best prices and services available for purchases and contracts of less than \$1,000 but is exempted from formal bid requirement mentioned in the two previous sections. (as added by Ord. #210, § 1, Sept. 1999)

5-509. Bid deposit. When deemed necessary, bid deposit 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 return of the deposits where such has been required. A successful bidder shall forfeit any required deposit upon failure on his part to enter a contract within ten (10) days after the award. (as added by Ord. #210, § 1, Sept. 1999)

5-510. Performance bond. The purchasing shall require a performance bond, before entering a contract, in such amount as he shall find reasonably necessary to protect the best interests of the city and furnisher of labor and materials in the penalty of not less than the amount provided for by the Tennessee Code Annotated. (as added by Ord. #210, § 1, Sept. 1999)

5-511. Record of bids. The purchasing agent shall keep a record of all open market orders and the 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.

The bid shall contain the following information:

- (1) Request to start bid procedures.
- (2) A copy of the advertisement.
- (3) A copy of the specifications.
- (4) A list of bidders and their responses.
- (5) A copy of the purchase order.
- (6) A copy of the invoice. (as added by Ord. #210, § 1, Sept. 1999)

5-512. Considerations in determining bid award. In determining the lowest responsible bidder, in addition to price, the purchasing agent shall consider:

- (1) The ability of the bidder to perform the contract or provide the material or services 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.
- (6) The sufficiency of the financial resources and 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) Terms and conditions stated in the bid.
- (9) Compliance with specifications.
- (10) Total cost of the bid, including expected life, maintenance costs, and performance. (as added by Ord. #210, § 1, Sept. 1999)

5-514. Award in case of tie bids. (1) If all bids received are for the same total amount, quality and services being equal, the contract or purchase shall be awarded to a local bidder.

(2) Where a local vendor has not bid or where his bid is not one of the lowest tie bids, the purchasing agent shall award the contract to one of the bidders by drawing lots in public. (as added by Ord. #210, § 1, Sept. 1999)

5-515. 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 will be canceled from the purchase order and the check will be issued to the equal amount of the purchase order. (as added by Ord. #210, § 1, Sept. 1999)

5-516. Emergency purchases. When, in the judgment of the purchasing agent, an emergency exists, the purchasing provisions of this policy may be waived; provided, however, the purchasing agent shall report the purchases/contracts to the city commission at the next regular council meeting stating the item, the amount paid, from whom the purchase was made, and nature of the emergency. Poor planning and management does not constitute an emergency. (as added by Ord. #210, § 1, Sept. 1999)

5-517. Waiver of competitive bidding. Upon recommendation of the city manager, that it is clearly to the advantage of the city not to contract by competitive bidding, the requirements of competitive bidding may be waived under the following circumstances:

(1) Single source of supply--the availability of only one vendor of a product or service within a reasonable distance of the city as determined after a complete search by the using department and the purchasing agent. A written statement must be filed verifying single source supplier.

(2) State Department of General Services--These purchases made through or in conjunction with the State Department of General Services (state contract). Municipality may take advantage of the so-called "state prices" regardless of any charter or general law requirements, as provided by Tennessee Code Annotated, § 12-3-1001.

(3) Purchases from other governments--Any city may purchase from any federal, state or local government unit or agency, second-hand articles of equipment or other materials, supplies, commodities, and equipment. The purchasing agent, all department heads, and city staff will be authorized to sign for these purchases. These purchases may be made without competitive bidding and public advertising regardless of charter requirements, as provided in Tennessee Code Annotated, § 12-2-1003.

(4) Purchases from non-profit corporations--Any city may purchase from any non-profit corporation whose sole purpose is to provide goods and services specifically to cities, such as local government data processing, as provided in Tennessee Code Annotated, § 12-2-1003.

(5) Purchases from Tennessee state industries.

(6) Purchases from instrumentalities created by two or more cooperating governments as provided in Tennessee Code Annotated, § 12-9-101.

(7) Certain insurance--cities may purchase tort liability insurance, without competitive bidding from the Tennessee Municipal League, or any other plan authorized and approved by any organization by governmental entities representing cities and counties as provided for in Tennessee Code Annotated, § 29-20-407.

(8) Investments in or purchases from the pooled investment fund established pursuant to Tennessee Code Annotated, § 9-17-105.

(9) Purchases of fuels, fuel products, or perishable commodities.

(10) Professional services shall not be bid competitively. Nothing in this provision shall be construed as requiring a contract with the city manger or city attorney, nor prohibiting such a contract.

(11) In those cases where the city commission indicates by unanimous resolution of those present at the meeting, based upon written recommendation of the city manager, that it is clearly to the advantage of the city not to contract with competitive bidding, it may authorize noncompetitive contracts. (as added by Ord. #210, § 1, Sept. 1999)

5-518. Property control. A physical inventory of the city's fixed assets must be taken annually. A system of fixed asset records provides a simple method of positive identification for each piece of equipment. It prevents the purchase of:

- (1) Unneeded and duplicate assets;
- (2) Provides a basis for insurance claims;
- (3) Theft and negligence are decreased;
- (4) Sets replacement schedules for equipment.
- (5) Notes transfer or disposal of surplus property.

To be classified as a fixed asset, an item must:

- (1) Be tangible
- (2) Have a life longer than the current year
- (3) Have a value, at the time of purchase, of \$3,000.00 or greater.

Any property and equipment that meets these criteria shall be assigned an asset number (affixed with a property sticker), have a completed property card, and be inventoried annually. Such records shall be controlled and maintained by the city recorder. (as added by Ord. #210, § 1, Sept. 1999, and amended by Ord. #241, June 2004)

5-519. Disposal of surplus property. The purchasing agent shall be in charge of the disposal of surplus property and make a full report to the city council. When a department determines there is surplus equipment or materials within the department, he/she will notify the purchasing agent in writing of any such equipment. The purchasing agent may transfer surplus equipment or materials from one department to another. (as added by Ord. #210, § 1, Sept. 1999)

5-520. Employees participating in the disposal of surplus property. No city employee above the rank of foreman shall be permitted to bid on surplus property. (as added by Ord. #210, § 1, Sept. 1999)

5-521. 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. These items shall be simply charged off as a routine cost of doing business. (as added by Ord. #210, § 1, Sept. 1999)

5-522. Items estimated to have monetary value. When disposing of items estimated to have monetary value, the purchasing agent shall follow the following procedures:

- (1) Obtain from the city commission a resolution declaring said item(s) surplus property and fixing the date, time, and place for the purchasing agent to receive bids.
- (2) A copy of the resolution shall be posted in three locations in the city.
- (3) Such equipment or materials shall be sold to the highest bidder. In the event the highest bidder is unable to pay within twenty-four (24) hours, the item shall be awarded to the second highest bidder.

(4) All pertinent information will be noted in the fixed asset records of the city as to the disposal of the items.

(5) The advertisement, bids, and property cards shall be retained for a minimum period of five years. (as added by Ord. #210, § 1, Sept. 1999)

5-523. Surplus property painted with city colors or with city emblems. No surplus city property painted with city colors and/or a city emblem shall be disposed of unless it is repainted with colors other than those of the city and/or the emblem removed. (as added by Ord. #210, § 1, Sept. 1999)

5-524. Definitions. When used in the context of the purchasing manual and in the authorization of the purchase order, contractual agreements, invitations to bid, or other pertinent documents, the words, conditions and phrases below shall have the following meanings:

- (1) "Accept." To receive with approval or satisfaction.
- (2) "Acknowledgment." Written confirmation from the vendor to purchaser of an order implying obligation or incurring responsibility.
- (3) "Agreement." A coming together in opinion or determination; understanding and agreement between two or more parties.
- (4) "All or none." The City of Whitwell 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.
- (7) "Approved." To be satisfied with; admit the propriety or excellence of; to be pleased with; to confirm, to 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; 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 purchasing agent offering to enter into contracts with the city. The term "bidder" will be used throughout this document and shall be construed to mean "offer or" where appropriate.

(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 bid.

(16) "Bid file." A folder containing all 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 tabulations form 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 of a product for a specified time. The vendor is then informed of the city's expected usage and duration of the contract. The city will order small quantities of these items from the vendor over the life 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 an expected lifespan of one year or longer and a value in excess of \$1,000.

(23) "Cash discount." A discount from the purchase price allowed to the purchaser if payment is made within a specified 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) "Competitive bidding." Bidding on the same undertaking or material items by more than one vendor.

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

(28) "Construction." The building, alteration, demolition or repair (including, but not limited to, dredging, excavating and painting) of public buildings, structures and highways and other improvements or additions to real property.

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

(30) "City." City of Whitwell, Tennessee.

(31) "Data." 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." 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, other characteristics of the bid that determine the eventual selection of a winning bid.

(36) "Fiscal year." An accounting period of 12 months, January 1 through December 31 or 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 transportation charges and retains title to and responsibility for the goods until the City of Whitwell has received and signed for the goods.

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

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

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

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

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

(43) "Material receiving report." A form used by the receiving function of an agency to inform others of the receipt of goods purchased.

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

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

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

(47) "Public." Open to all.

(48) "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.

(49) "Purchase 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.

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

(51) "Responsible bidder." One who has submitted a bid which conforms in all material respects to the invitation for bids.

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

(53) "Sealed bids." Written proposals or offers which are submitted by potential vendors before a certain date to a purchasing agent who has provided complete information regarding specifications and quantities required.

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

(55) "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.

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

(57) "Telephone bids." Contacting one or more vendors to obtain oral quotes for items of a value less than \$1,000.

(58) "Vendor." The person who transfers property, goods, or services by sale. (as added by Ord. #210, § 1, Sept. 1999)

## TITLE 6

LAW ENFORCEMENT<sup>1</sup>

## CHAPTER

## 1. POLICE AND ARREST.

## CHAPTER 1

POLICE AND ARREST

## SECTION

6-101. When policemen to make arrests.

6-102. Disposition of persons arrested.

6-101. When policemen to make arrests. Unless otherwise authorized or directed in this code or other applicable law, and arrest of the person shall be made by a policeman in the following cases:

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it.

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

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

---

<sup>1</sup>Municipal code reference

Issuance of citations in lieu of arrest in traffic cases: see title 15, chapter 7, sections 15-701 and 15-706.

TITLE 7<sup>1</sup>FIRE PROTECTION AND FIREWORKS<sup>2</sup>

## CHAPTER

1. VOLUNTEER FIRE DEPARTMENT.
2. FIREWORK DISCHARGE.
3. INTERFERENCE WITH FIRE APPARATUS PROHIBITED.
4. FALSE ALARMS PROHIBITED.
5. FIRE SERVICE OUTSIDE CITY LIMITS.

## CHAPTER 1

VOLUNTEER FIRE DEPARTMENT<sup>3</sup>

## SECTION

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

7-101. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations of the board of commissioners. Any funds raised by the volunteer fire department as a whole, or by any individual or group of volunteer firemen in the name of the volunteer fire department, and any gifts to the volunteer fire department shall be turned over to and become the property of, the city and the city shall use such funds in the equipping of the volunteer fire department. All other apparatus, equipment, and supplies of the volunteer fire department shall be purchased by or through the city and shall be and remain the property of the

---

<sup>1</sup>Municipal code reference

See title 4, chapter 2, Department of Public Safety, for duty to eliminate fire hazards.

<sup>2</sup>Municipal code reference

See section 18-123, Water Emergency (In case of water emergency, the fire department will not answer calls outside the city limits).

<sup>3</sup>Municipal code reference

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

city. The volunteer fire department shall be composed of a chief appointed by the city manager and the fire chief shall appoint such number of subordinate officers and firemen as the board of commissioners shall approve.

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

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

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

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

7-105. Tenure and compensation of members. The fire chief shall have the authority to suspend or discharge any other member of the volunteer fire department when he deems such action to be necessary for the good of the department. The fire chief may be dismissed by the city manager.

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

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

7-107. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof.

## CHAPTER 2

FIREWORK DISCHARGE

## SECTION

7-201. Firework discharge.

7-201. Firework discharge. No person shall discharge any firecracker, torpedo, roman candle, skyrocket, or other fireworks of any kind or nature whatsoever upon any street, sidewalk, or other public property of the City of Whitwell, Tennessee. (Ord. # 184, May `89)

## CHAPTER 3

INTERFERENCE WITH FIRE APPARATUS PROHIBITED

## SECTION

7-301. Interference with fire apparatus prohibited.

7-301. Interference with fire apparatus prohibited. (1) The driver of any vehicle other than one on official business shall not follow any fire apparatus travelling in response to a fire alarm, closer than five hundred (500) feet.

(2) The driver of any vehicle shall not park the same within the block where fire apparatus has stopped in answer to a fire alarm, nor within five hundred (500) feet of a fire.

(3) The driver of any vehicle shall not park such vehicle upon any street leading to the location of a fire in such a manner as to block, hinder or retard the approach of fire apparatus, and in no event shall any vehicle be parked upon any street without leaving a clear driving space upon such street or roadway of at least fifteen (15) feet.

(4) Citations for the violation of this chapter may be issued by any police officer, the city manager, the chief of the fire department or by any captain of the fire department, and such citation shall have the same force and effect and be equally valid as though served by any regularly appointed police officer of this city. (Ord. # 58, March `60)

## CHAPTER 4

FALSE ALARMS PROHIBITED

## SECTION

7-401. False alarms prohibited.

7-401. False alarms prohibited. (1) No person shall at any time turn in a false alarm to the City of Whitwell or to the Whitwell Fire Department by means of telephone, or in any other manner.

(2) Any person turning in a false fire alarm by any means to the City of Whitwell, or to the Whitwell Fire Department, shall reimburse the City of Whitwell for the actual expense of answering said false alarm. The total amount due shall be computed on the basis of the total distance travelled by the fire apparatus from the time it leaves the fire hall until it returns to its station.

(3) The turning in of a false fire alarm in violation of this chapter shall be deemed a misdemeanor, and on conviction thereof shall be punishable by a fine of fifty dollars (\$50.00) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment in the discretion of the trial judge. (Ord. # 57, March `60, as modified)

## CHAPTER 5

FIRE SERVICE OUTSIDE CITY LIMITS

## SECTION

7-501. Restrictions on fire service outside city limits.

7-501. Restrictions on fire service outside city limits. No personnel or equipment of the fire department shall be used for fighting any fire outside the city limits unless the fire is on city property or, in the opinion of the fire chief, is in such hazardous proximity to property owned or located within the city as to endanger the city property, or unless the board of commissioners has developed policies for providing emergency services outside of the city limits or entered into a contract or mutual aid agreement pursuant to the authority of:

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

---

<sup>1</sup>State law references

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

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

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

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

The statute outlines the liabilities of the requesting and responding governments as follows: (1) Neither the responding party nor its employees shall be liable for any property damage or bodily injury at the actual scene of any emergency due to actions performed in  
(continued...)

- (2) Tennessee Code Annotated, § 12-9-101, et seq.<sup>1</sup>  
 (3) Tennessee Code Annotated, § 6-54-601.<sup>2</sup>

---

(...continued)

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

<sup>1</sup>State law reference

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

<sup>2</sup>State law reference

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

## TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

## CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

## CHAPTER 1

INTOXICATING LIQUORS

## SECTION

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws<sup>2</sup> and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within the City of Whitwell. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight.

---

<sup>1</sup>Municipal code references

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

<sup>2</sup>State law reference

See Tennessee Code Annotated, title 39, chapter 6, for provisions regulating intoxicating liquors.

## 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. Interference with public health, safety, and morals prohibited.
- 8-211. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders.
- 8-213. Suspension and revocation of beer permits.
- 8-214. Civil penalty in lieu of suspension.
- 8-215. License non-transferable.
- 8-216. New location.

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

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the 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.

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

---

<sup>1</sup>Municipal code references

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

Tax provisions: see title 5, chapter 4.

State law reference

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

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

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

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

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

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

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

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

8-210. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with hospitals, schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. No license or permit shall be granted which authorizes the sale, storage, or manufacture of such beer or beverages within 175 feet of any school or church. (Ord. # 6, as modified)

8-211. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

8-212. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

- (1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.
- (2) Make or allow any sale of beer after the hours of 12:00 Midnight and before 8:00 A.M. Monday through Saturday, or Sundays before 12 noon and after 12 midnight.
- (3) Allow any loud, unusual, or obnoxious noises to emanate from his premises.
- (4) Make or allow any sale of beer to a person under twenty-one (21) years of age.
- (5) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
- (6) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (7) Allow drunk persons to loiter about his premises.
- (8) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.
- (9) Allow dancing on his premises.

(10) Allow pool or billiard playing in the same room where beer is sold and/or consumed. (Ord. # 164, March `84, as modified)

8-213. Suspension and revocation of beer permits. The beer board shall have the power to suspend or revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. Complaints brought for the purpose of suspending or revoking such licenses shall be made in writing and filed with the chairman of said board, who shall thereupon give or cause to be given written notice, accompanied by a copy of such written complaint, commanding the person, persons, firm, corporation or association to appear at a time and place designated in said notice before said board and show cause why such license should not be suspended or revoked, such notice to be served either by registered letter or by any policeman of the City of Whitwell, at least five (5) days prior to the date of the hearing when such person, persons, firm, corporation or association is cited to appear. Upon the hearing said board shall publicly hear and determine the nature and merits of the complaint, and for this purpose the chairman of said board is authorized to compel the attendance of witnesses by subpoena, and after such hearing said board may for proper cause suspend or revoke such license. (Ord. # 6, as modified)

8-214. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1,000 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

8-215. License non-transferable. The license specified hereunder, when issued, shall not be transferable to any other person, persons, firm, corporation or association. (Ord. # 6)

8-216. New location. When any person shall move the location of the place of business where such beverages are sold, then in all cases he shall be required to obtain from the city a new license in the manner herein provided by application to said board therefor. (Ord. # 6)

TITLE 9

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

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.<sup>2</sup>

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers, street barkers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.
- 9-110. Violation and penalty.
- 9-111. Roadblocks regulated.

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

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

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise,

---

<sup>1</sup>Municipal code references

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

Junkyards: see title 13.

Liquor and beer regulations: see title 8.

Zoning: see title 14.

<sup>2</sup>Municipal code references

Privilege taxes: see title 5.

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

or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the city or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

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

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

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

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

(5) "Transient vendor"<sup>1</sup> means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise"

---

<sup>1</sup>State law reference

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

The definition of "transient vendors" is taken from Tennessee Code Annotated, section 67-4-709(a)(19). Note also that Tennessee Code Annotated, section 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated, section 67-4-709(b).

means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

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

9-102. Exemptions. The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold.

9-103. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter.

9-104. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the city manager by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

(a) The complete name and permanent address of the business or organization the applicant represents.

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

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

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

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

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

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

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

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

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

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

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

(3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the city.

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

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

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

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

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

(b) Any violation of this chapter.

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

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days.

9-110. Violation and penalty. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances.<sup>1</sup>

9-111. Roadblocks regulated. (1) Roadblocks are restricted to such organizations that are duly filed with the Internal Revenue Service as subchapter 501(c)3 organizations.

(2) The following terms shall apply in the interpretation and application of this section:

(a) Roadblock shall mean the solicitation by any person of money or in the right of way of any street, road, highway, or any other

---

<sup>1</sup>See section 5, of the Adopting Ordinance.

public way and place generally open to, and used by, the public for travel in or upon motor vehicles.

(b) "Street," "road," "highway," and "public way and place" shall include the paved or unpaved surface of any such street, road, highway or public place, the entire width of the public right of way extending laterally therefrom, dividers, medians, and abutting or adjoining sidewalks or other pedestrian pathways generally open to the public for pedestrian traffic.

(3) Any person violating this section shall be subject to punishment of a \$50.00 fine. (as added by Ord. #228, Dec. 2002, repealed by Ord. #246, Nov. 2004, and replaced by Ord. #247, Nov. 2004)

## TITLE 10

ANIMAL CONTROL

## CHAPTER

1. IN GENERAL.
2. DOGS.

## CHAPTER 1

IN GENERAL

## SECTION

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

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits.

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

10-102. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition.

10-103. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle.

10-104. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. This provision shall not exclude commercial chicken houses that comply with all state and federal regulations. (as amended by Ord. #242, June 2004)

10-105. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl.

10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of commissioners. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of commissioners.

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

## CHAPTER 2

DOGS

## SECTION

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

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

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

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

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

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

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

---

<sup>1</sup>State law reference

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

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

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

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

---

<sup>1</sup>State law references

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 (1927).

## TITLE 11

MUNICIPAL OFFENSES<sup>1</sup>

## CHAPTER

1. ALCOHOL.
2. FORTUNE TELLING, ETC.
3. UNLAWFUL CONDUCT OF MINORS AND PARENTS.
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. DAMAGE TO GOVERNMENT PROPERTY.

## CHAPTER 1

ALCOHOL<sup>2</sup>

## SECTION

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

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

---

<sup>1</sup>Municipal code references

Animal control: see title 10.

Fireworks and explosives: see title 7 for firework discharges, false alarms, and interference with fire apparatus.

Traffic offenses: see title 15.

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

<sup>2</sup>Municipal code reference

Sale of alcoholic beverages, including beer: see title 8.

State law reference

See Tennessee Code Annotated section 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation); See also, Tennessee Code Annotated, section 39-6-928 (Giving municipal courts jurisdiction to try public intoxication offenses).

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

## CHAPTER 2

FORTUNE TELLING, ETC.

## SECTION

11-201. Fortune telling, etc.

11-201. 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.

## CHAPTER 3

UNLAWFUL CONDUCT OF MINORS AND PARENTS

## SECTION

- 11-301. Definitions.
- 11-302. Unlawful conduct of minors.
- 11-303. Unlawful conduct of parents.
- 11-304. Unlawful conduct of owners or operators or establishments.
- 11-305. Civil and criminal liability of parents.
- 11-306. Enforcements and penalties.
- 11-307. Severability.

11-301. Definitions. The following definitions shall apply to the following terms as used in this section only: (1) "Establishment" means any privately owned place of business carried on for profit or any place of amusement or entertainment to which the public is invited;

(2) "Minor" means any person under the age of 18 years.

(3) "Operator" means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment; and whenever used in any clause prescribing a penalty, the term "Operator" as applied to associations or partnership, shall include the members or partners thereof, and as applied to corporations, and shall include the officers thereof;

(4) "Parent" means any natural parent of a minor, a guardian, or any adult person, twenty-one (21) years of age or over, responsible for the care and custody of a minor;

(5) "Public place" means any public street, highway, road, alley, park playground, public building or vacant lot;

(6) "Remain" means to loiter, idle, wander, stroll, or play in or upon. (Ord. # 47, April `59)

11-302. Unlawful conduct of minors. (1) It shall be unlawful for any minor to remain in or upon any public place or any establishment between the hours of 10 P.M. and 6 A.M. of the following day, Central Standard Time, except on Fridays and Saturdays the hours shall be from 12 P.M. to 6 A.M.;

(2) The provisions of this section shall not apply to any minor accompanied by a parent, or to a minor upon an errand or other legitimate business directed by such minor's parent, or to any minor who is engaged in gainful lawful employment during the curfew hours. (Ord. # 47, April `59)

11-303. Unlawful conduct of parents. (1) It shall be unlawful for any parent to knowingly permit any minor to remain in or upon any public place or any establishment between the hours of 10 P.M. and 6 A.M. of the following day,

Central Standard Time, except that on Fridays and Saturdays the hours shall be from 12 P.M. to 6 A.M.;

(2) The provisions of this section shall not apply to any parent who accompanies a minor or to a parent who directs a minor upon an errand or other legitimate business or to any parent of a minor engaged in gainful employment during the curfew hours. (Ord. # 47, April `59, modified)

11-304. Unlawful conduct of owners or operators or establishments. It shall be unlawful for any operator of an establishment or their agents or employees knowingly to permit any minor to remain upon the premises of his establishment between the hours of 10 P.M. and 6 A.M. of the following day, Central Standard Time, except that on Fridays and Saturdays the hours shall be 11 P.M. to 6 A.M. (Ord. # 47, April `59)

11-305. Civil and criminal liability of parents. If any minor shall wilfully destroy or damage any public property, or the property of any person within the corporate limits of this city, the parents of said minor as well as the minor himself shall be liable for all such damages incurred. (Ord. # 47, April `59)

11-306. Enforcements and penalties. (1) Any police officer who finds a minor violating the provisions of this chapter shall obtain information from such minor as to his name and address, age, and the name of his parent or parents. The minor shall thereupon be instructed to proceed to his home forthwith. The information obtained from the minor shall be forwarded to the Juvenile Court, which shall cause a written notice to be mailed to the parent or parents of the minor, advising of the violation of this chapter;

(2) In the event the minor fails or refuses to proceed to his home after being instructed to do so by a police officer, the police officer shall forthwith take the child to his home and ascertain whether the parents, or persons having legal custody and control of such a minor, wish to be held responsible for such minor's observance of the provisions of this chapter. If such parent refuses to be so responsible, the officer shall forthwith deliver the child to the Juvenile Court. (Ord. # 47, April `59)

11-307. Severability. The provisions of the chapter are hereby declared to be severable, and if any provision shall be held illegal, invalid, or unconstitutional, such illegality, invalidity, or unconstitutionality shall not effect or impair any of the remaining provisions. It is hereby declared to be the intent of the commission that his chapter would have been adopted if such illegal, invalid or unconstitutional provision had not been included herein. (Ord. # 47, April `59)

## 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.

11-402. Anti-noise regulations. (1) 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.

(2) The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this chapter, but this enumeration shall not be deemed to be exclusive:

(a) The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or while in motion 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 noise, and the sounding of such device for an unnecessary and unreasonable period of time.

(b) The use of any automobile, motorcycle or other vehicle so out or repair or so loaded in such manner as to create loud and unnecessary grading, grinding, rattling or other noise.

(c) The discharge in the open air the exhaust of any steam engine, stationary combustion engine, automotive engine or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(d) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court, while the same is in session, or adjacent to any hospital, which unreasonably interferes with the working or sessions thereof. (Ord. # 35, Sept. `58, as modified)

## CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

## SECTION

11-501. Escape from custody or confinement.

11-502. Impersonating a government officer or employee.

11-501. 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.

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.

## CHAPTER 6

FIREARMS, WEAPONS AND MISSILES<sup>1</sup>

## SECTION

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Discharge of firearms.

11-601. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method.

11-602. 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, except on their own property.

11-603. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits, except on their own property. (Ord. # 184, May `89, modified)

---

<sup>1</sup>Municipal code reference

See also, title 7, section 7-101, Prohibiting fireworks discharge.

CHAPTER 7

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

- 11-701. Trespassing.
- 11-702. Malicious mischief.
- 11-703. Interference with traffic.
- 11-704. Loitering/lingering and cruising in certain areas open to the public prohibited.
- 11-705. Adoption of state traffic statutes and regulations.

11-701. Trespassing.<sup>1</sup> (1) On premises open to the public.

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

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

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

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

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

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

---

<sup>1</sup>State law reference

Subsections (1) through (4) of this section were taken substantially from Tennessee Code Annotated, section 39-3-1201 et seq.

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

11-702. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him.

11-703. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon.

11-704. Loitering/lingering and cruising in certain areas open to the public prohibited. (1) The owners and operators of shopping centers or any other business having public parking areas are hereby authorized to post signs on or about the parking areas and private roadways on their properties giving notice that cruising and/or loitering on the property is prohibited and specifying that such conduct is prohibited.

(2) The term "cruising" as used in this section is defined as the continual, repeated, and aimless operation of a motor vehicle, through, over, around or within the parking areas and private roadways of any business or shopping center without parking the motor vehicle to enter the business or shopping center served by such parking areas and/or private roadway.

(3) Cruising, as hereinabove define, and loitering, as hereinafter definite are prohibited after the close of business each evening until dawn of the following morning, and provided further, that such conduct is prohibited during normal business hours when the conduct interferes with, impedes or prevents bona fide customers from being able to enter and exit any business or shopping center or such conduct obstructs vehicular traffic. Furthermore, such conduct is also prohibited during those times set out in signs posed by the owners and operators of shopping centers as mentioned in subsection (1) of the section.

(4) The term "loitering" shall be defined as parking and congregating around a vehicle or vehicles in the aforesaid prohibited areas for the purpose of hanging out, partying, drinking, or socializing.

(5) Violation of the provisions of this section shall be deemed a trespass and upon conviction, the violator(s) shall be fined not less than twenty-five (\$25.00) dollars nor more than (\$50.00) dollars and court costs. The court may, in its discretion, impose, in addition to the aforesaid fine and costs, a sentence of not more than two (2) days of public or community service with

---

<sup>1</sup>Municipal code reference

Provisions governing peddlers: see title 9, chapter 1.

said service to be performed on two (2) consecutive Saturdays or at such other times as the court may direct. (as added by Ord. #220, June 2001, and amended by Ord. #220 A, Sept. 2001)

11-705. Adoption of state traffic statutes and regulations. All violations of state regulations for the operation of vehicles committed within the corporate limits of the municipality and which are defined by state law are hereby designated and declared to be offenses against the City of Whitwell also. This provision shall not apply to any offenses in which the state courts have exclusive jurisdiction. (as added by Ord. #244, Oct. 2004)

CHAPTER 8

DAMAGE TO GOVERNMENT PROPERTY

SECTION

11-801. Damage to government property.

11-801. Damage to government property. (1) It shall be a misdemeanor for any person willfully to damage or destroy, or to cause injury to, any property, real or personal, owned by the State of Tennessee, Marion County, the City of Whitwell, or any other governmental agency.

(2) It shall also be a misdemeanor to do any act which might reasonably be expected to result in damage to property owned by the State of Tennessee, Marion County, the City of Whitwell, or any other governmental agency, whether such property be real or personal. (Ord. # 63, Oct. '60, as modified)

TITLE 12

BUILDING, UTILITY, ETC. CODES<sup>1</sup>

(RESERVED FOR FUTURE USE)

---

<sup>1</sup>Note: See state law concerning building regulations, Tennessee Code Annotated 68-18-101 et seq.

For zoning and land use control, see title 14 of this code. See also title 13, for property maintenance regulations.

## TITLE 13

PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

## CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. ABANDONED AND DISCARDED VEHICLES.

## CHAPTER 1

MISCELLANEOUS

## SECTION

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

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

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

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

---

<sup>1</sup>Municipal code references

Animal control: see title 10.

Littering streets, etc.: see section 16-107.

Wastewater treatment: see title 18, chapter 2.

Zoning and land use control: see title 14.

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

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

(3) Designation of public officer or department. The board of commissioners shall designate an appropriate department or person to enforce the provisions of this section.

(4) Notice to property owner. It shall be the duty of the department or person designated by the board of 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 the minimum, contain the following additional information:

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

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

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

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

---

<sup>1</sup>Municipal code reference

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

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

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the 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 subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

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

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

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the city manager and dispose of such animal in such manner as the city manager shall direct.

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

## CHAPTER 2

SLUM CLEARANCE<sup>1</sup>

## SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of order.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Structures unfit for human habitation deemed unlawful.

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of commissioners 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 insanitary, 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 Whitwell, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(2) "Governing body" shall mean the board of commissioners 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 any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

---

<sup>1</sup>State law reference

Tennessee Code Annotated, title 13, chapter 21.

(5) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

(6) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

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

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the city manager of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the city manager.

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 court of law or equity shall not be controlling in hearings before the public officer.

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupancy or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order: (1) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy or use; or (2) if the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

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

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

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of Marion County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner 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. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Marion 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 Whitwell 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 Whitwell; 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 Marion County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

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

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

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

- (1) To investigate conditions of the structures in the 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.

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

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

## CHAPTER 3

JUNKYARDS

## SECTION

- 13-301. Definitions.
- 13-302. Junkyard screening.
- 13-303. Screening methods.
- 13-304. Requirements for effective screening.
- 13-305. Maintenance of screens.
- 13-306. Utilization of highway right-of-way.
- 13-307. Non-conforming junkyards.
- 13-308. Permits and fees.

13-301. Definitions. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(2) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.

(3) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

(4) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company, body politic, or corporation.

(5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the city.

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter.

13-303. Screening methods. The following methods and materials for screening are given for consideration only:

(1) Landscape planting. The planting of trees, shrubs, etc., of sufficient size and density to provide a year-round effective screen. Plants of the evergreen variety are recommended.

(2) Earth grading. The construction of earth mounds which are graded, shaped, and planted to a natural appearance.

(3) Architectural barriers. The utilization of:

(a) Panel fences made of metal, plastic, fiberglass, or plywood.

(b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative.

(c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen.

13-304. Requirements for effective screening. Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the city. The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.

(1) Screens which provide a "see-through" effect when viewed from a moving vehicle shall not be acceptable.

(2) Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.

(3) Screening shall be located on private property and not on any part of the highway right-of-way.

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area.

13-305. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the city.

If not replaced within sixty (60) days the city shall replace said screening and shall require payment upon demand. Failure to pay in full shall result in the fee plus interest to be assessed to the property and shall be combined with the subsequent taxation of the property by the city.

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition.

13-307. Non-conforming junkyards. Those junkyards within the city and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as "non-conforming". Such junkyards may be subject to the following conditions, any violation of which shall terminate the non-conforming status:

- (1) The junkyard must continue to be lawfully maintained.
- (2) There must be existing property rights in the junk or junkyard.
- (3) Abandoned junkyards shall no longer be lawful.
- (4) The location of the junkyard may not be changed for any reason.

If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the city.

- (5) The junkyard may not be extended or enlarged.

13-308. Permits and fees. It shall be unlawful for any junkyard located within the city to operate with out a "Junkyard Control Permit" issued by the city.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The city's fiscal year begins on July 1 and ends on June 30 the year next following.

(2) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars (\$50.00) which is not subject to either proration or refund.

(3) All applications for an original or renewal permit shall be made on a form prescribed by the city.

(4) Permits shall be issued only to those junkyards that are in compliance with these rules.

(5) A permit is valid only while held by the permittee and for the location for which it is issued.

## CHAPTER 4

ABANDONED AND DISCARDED VEHICLES

## SECTION

## 13-401. Abandoned and discarded vehicles.

13-401. Abandoned and discarded vehicles. (1) Definitions. The following definitions shall apply in the interpretation and enforcement of this code section:

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

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

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

(d) "Abandoned vehicle" shall mean any vehicle or part thereof which is left unattended on public or private property for more than 30 days, or a vehicle that has remained illegally on public property for a period of more than forty-eight (48) hours, or a vehicle that has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours.

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

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

(4) Location or presence of discarded or abandoned vehicles within city deemed public nuisance; exceptions. The location or presence of any discarded or abandoned vehicle or discarded or abandoned vehicles on any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the City of Whitwell shall be deemed a public nuisance and it shall be unlawful for any, person or persons to cause or maintain such public nuisance by wrecking, dismantling, rendering inoperable, abandoning or discarding his or their vehicle or vehicles on the property of another or to suffer, permit or

allow the same to be placed, located, maintained or exist upon his or their own real property; provided that this section shall not apply to:

(a) a vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;

(b) a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer, licensed automobile graveyard or other licensed business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise; or

(c) a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or other governmental authority.

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

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

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

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

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

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

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

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

the property to secure the amount expended by it in abating such nuisance which shall be superior to all other contractual liens.

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

TITLE 14

ZONING AND LAND USE CONTROL<sup>1</sup>

CHAPTER

1. MOBILE HOME REGULATIONS.

CHAPTER 1

MOBILE HOME REGULATIONS

SECTION

14-101. Definitions.

14-102. Regulations for single mobile homes including those in mobile home subdivisions.

14-103. Mobile home parks.

14-104. Building permit.

14-105. Required recreation areas.

14-106. Mobile home regulation committee.

14-107. Highest standard to prevail.

14-108. Violations.

14-101. Definitions. The following definitions shall apply in the interpretation and application of this chapter:

(1) "Mobile home." A mobile home is a single-family dwelling designed for transportation, after fabrication, on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operation, location on jacks or permanent foundation, connection to utilities and the like.

(2) "Mobile home park." A portion of parcel of land designed for or which is intended to be used to accommodate two or more mobile homes.

(3) "Mobile home subdivisions." A mobile home subdivision is a subdivision designed and intended for residential use where residence is in mobile homes exclusively.

(4) "Subdivision." The division of a tract or parcel of land into two or more lots.

---

<sup>1</sup>Note: The Marion County Planning and Development Board regulates all zoning within the City of Whitwell.

(5) "Lot." A piece, parcel or plot of land in one ownership, occupied or to be occupied by one principal building (or mobile home) and its accessory buildings and including the open spaces required herein.

(6) "Buffer strip." A strip of land along a property line reserved for screening purposes from adjoining properties or public right of way and planted with evergreen trees and/or shrubs in such a manner as to provide such screening. (as added by Ord. #230, April 2003)

14-102. Regulations for single mobile homes including those in mobile home subdivisions. (1) A single mobile home may be placed on a lot provided that all applicable subdivision regulations, housing, building code provisions and all state and federal laws are complied with, including minimum lot sizes as follows:

(a) Residential lots served by a public sewage system shall not be less than 60 feet wide at the building setback line nor less than 6,000 square feet in area.

(b) Residential lot not served by a public sewage system shall not be less than 75 feet wide at the building line nor less than 15,000 square feet in area.

Greater area may be required for private sewage disposal if, in the opinion of the county health officer/department, there are factors of drainage, soil condition or other conditions to cause potential health problems.

On lots without a public water supply the minimum size shall be two acres, and a width at the building setback line shall not be less than 200 feet, except than an exception may be granted where a single parcel is separated from a larger tract without the intention of further subdivisor.

**BUILDING SETBACK LINES:** The minimum depth of building setback lines from the right-of-way of minor streets shall not be less than 30 feet and in the case of corner lots, 30 feet from the side street. On collector streets, the minimum setback shall be 40 feet. On arterial streets the minimum setback line shall be 50 feet (unless a greater distance is deemed to be necessary by the planning commission for the protection of the contemplated development on the property.)

In the case of electric transmission lines where easement widths are not definitely established there shall be a minimum building setback line from the center of the transmission line as follows:

| <u>Voltage of Line</u> | <u>Minimum Building Setback</u> |
|------------------------|---------------------------------|
| 46 KV                  | 37½ feet                        |
| 69 KV                  | 75 feet                         |
| 161 KV+                | 100 feet                        |

CORNER LOTS: Corner lots shall be sufficiently wider and larger to permit the additional side yard requirements of the above building setback requirements.

All other mobile homes occupied for living purposes shall be confined to mobile home parks and temporary occupancies as provided for in subsection (2) below.

(2) A temporary permit not exceeding six (6) months may be issued for occupancy of a mobile home on a lot with another dwelling or building for living purposes where the applicant can show that such occupancy is necessary to provide for the care of a sick or inform person or the guarding of a construction site. A temporary permit can be renewed for periods not exceeding a total of one (1) year or until such need expires. (as added by Ord. #230, April 2003)

14-103. Mobile home parks. (1) Applications for mobile home parks shall be reviewed by the city manager and approved by the city commission prior to submission to the Tennessee Commissioner of Public Health or his duly authorized representative as required by §§ 68-24-101 through 68-24-120, Tennessee Code Annotated and the "Trailer Court Regulations" of the Tennessee Department of Public Health.

(2) Application for review: An application for a mobile home park shall consist of a map drawn to a scale no smaller than 1" - 100' setting forth therein the geographical location, boundaries, drainage, buildings, and sanitation facilities such as location of water and sewer lines and the number, location and size of all mobile homes spaces.

(3) No parcel of land containing less than 3 acres and less than 5 mobile home spaces (available at the time of first occupancy) shall be used for a mobile home park.

(4) There shall be a maximum of 9 mobile home spaces per acre.

(5) Each mobile home space shall have a minimum width of 40 feet, except where mobile homes wider than 14 feet are anticipated, in which case the lot shall be equal to the width of the mobile home plus 30 feet.

(6) Each mobile home space shall have a depth equal to the length of the mobile home plus 30 feet. The minimum front yard setback shall be 15 feet from tow hitch and the minimum side yard setbacks shall be 15 feet as measured from the mobile home or any attachments thereto such as a garage or porch. No mobile home shall be located closer than 30 feet to any public street or highway.

(7) A planted buffer strip, not less than 20 feet in width shall be located along the property lines of the mobile home park, except across driveways and streets.

(8) A minimum of ten (10) spaces or 25% whichever is less of the total number of mobile home spaces in the proposed park shall be available for occupancy before any mobile home space may be occupied by a mobile home.

(9) There shall be only one (1) mobile home per mobile home space.

(10) Every mobile home space shall abut a driveway with unobstructed access to an open, approved public street.

(11) Fire hydrants shall be located within 50 feet of any mobile home, serving building, or other structure in the park.

(12) The mobile home park shall be adequately lighted.

(13) Each mobile home park shall provide at least one off street parking space for each mobile home space plus an additional car space for each 4 mobile home units for guests' parking, 2-car tenants and for delivery and service vehicles. The parking spaces shall be located for convenient access to mobile home units. Insofar as practicable, one car space shall be located on each lot and the remainder located in adjacent parking bays.

(14) Roadways shall be a minimum of 22 feet in width and shall be paved with a hard surface material which shall not be less than double bituminous surface.

(15) The storage, collection and disposal of refuse shall be so managed as to create no health hazards, rodent harborage or insect breeding areas. Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them.

(16) The mobile home park water distribution system shall be connected to the public water supply system, and each occupied mobile home space shall have a separate water meter unless written permission or variance is given by the city commission in an official meeting.

(17) All water piping, fixtures, and other equipment shall be constructed and maintained in accordance with state and local regulations and requirements and shall be of the type and location approved by the state health department.

(18) An adequate and safe sewage system shall be required for conveying and disposing of all sewage. Wherever feasible, connection shall be made to the public sewage system.

(19) The sewage system shall be designed and constructed in accordance to state and local laws and shall be approved by the county health officer. (as added by Ord. #230, April 2003)

14-104. Building permit. That persons placing a mobile home on any lot shall obtain a building permit from the city managers at a cost of \$10.00. Approved septic tank must be installed before mobile home is attached to the city water system and new or relocated mobile homes shall have separate water meters. (as added by Ord. #230, April 2003)

14-105. Required recreation areas. (1) In all mobile home parks, there shall be one or more recreation areas which shall be easily accessible to all mobile home park residents.

(2) The size of such recreation areas shall be based upon a minimum of 400 square feet for each mobile home space. No outdoor recreation areas shall contain less than 4,000 square feet.

(3) Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located. (as added by Ord. #230, April 2003)

14-106. Mobile home regulation committee. A committee shall be appointed by the Mayor of the City of Whitwell to regulate and enforce the provisions herein and grant any variances deemed by the committee to be necessary. This committee shall consist of one member of the city commission, the city manager, and one Marion County Health Department Inspector or his assistant. (as added by Ord. #230, April 2003)

14-107. Highest standard to prevail. Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in other official regulations, the highest standard shall apply. (as added by Ord. #230, April 2003)

14-108. Violations. The violation of any part of this chapter is hereby declared to be a misdemeanor and upon conviction of any person for such violation, he, she, or they are to be fined according to the general penalty provision of this code of ordinances. (as added by Ord. #230, April 2003)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

CHAPTER

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

CHAPTER 1

MISCELLANEOUS<sup>2</sup>

SECTION

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

---

<sup>1</sup>Municipal code reference

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

<sup>2</sup>State law references

Under Tennessee Code Annotated, section 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, section 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, section 55-10-101 et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, section 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, section 55-10-501.

- 15-112. School safety patrols.
- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-122. Delivery of vehicle to unlicensed driver, etc.
- 15-123. Compliance with the financial responsibility law is required.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9.

15-102. Driving on streets closed for repairs, streets open to trucks.

(1) Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose.

(2) Streets open to trucks. (a) Definitions: The following terms, when used in this section, shall have the meaning hereinafter subscribed:

(1) City manager: The city manager of the City of Whitwell, or any employee or agent designated by him to carry out the duties of this chapter.

(2) Truck: Every motor vehicle of the type generally described as "trucks" with a load capacity in excess of two tons. This term shall include tractor-trailer rigs, vans, so called flat-beds, stake body trucks, but shall not include pick up trucks and farm vehicles. The above enumerations and exclusions shall not be deemed to be exclusive, but for the purposes of explanation only.

(b) City manager to designate truck route: The city manager shall have right and duty to designate such streets and highways through the City of Whitwell which may be utilized by trucks and truck traffic, and shall have the further power to designate specific truck routes for through truck traffic, through the city.

(c) Truck routes-markings: Routes designated by the city manager for through traffic shall be marked with appropriate signs bearing the legend "Truck Route" or such other appropriate legend as the city manager may designate. When so designated, truck traffic shall be required to follow the designated truck route.

(d) City manager's authority to prohibit truck traffic: The city manager is also invested with the authority to designate such streets within the city which are prohibited to all truck traffic, except for the purpose of delivery to a specific location on such streets. When so designated, all truck traffic shall be prohibited on such streets, except for purposes herein of delivery as herein above set forth. Such designation shall be by appropriate signs which shall bear the legend. "Trucks Prohibited," or such other appropriate legend as the city manager may designate. (Ord. # 112, July `73, as modified)

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

15-104. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction.

15-105. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn.

15-106. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

15-107. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street.

15-108. Miscellaneous traffic control signs, etc.<sup>1</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

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

15-109. General requirements for traffic control signs, etc. All traffic control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,<sup>2</sup> published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the city. This section shall not be construed as being mandatory but is merely directive.

15-110. Unauthorized traffic control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal.

15-111. Presumption with respect to traffic control signs, etc. When a traffic control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper city authority.

---

<sup>1</sup>Municipal code references

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

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

15-112. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals.

15-113. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated.

15-114. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place.

15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks.

15-116. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ( $\frac{1}{2}$ ) hour after sunset and one-half ( $\frac{1}{2}$ ) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle.

15-118. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle.

15-119. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor

Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law."

15-120. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

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

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

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right. When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

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

15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.

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

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

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

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

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the 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, motor driven cycles, or motorized bicycles.

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

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

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

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

(7) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

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

15-122. Delivery of vehicle to unlicensed driver, etc. (1) Definitions.

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

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

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

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

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

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

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

15-123. Compliance with the financial responsibility law is required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year and issued by the Commissioner of Safety stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the Department of Safety or the Interstate Commerce Commission, or was owned by the United States, the state of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50). The civil penalty prescribed in this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #245, Oct. 2004)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police.

15-202. Operation of authorized emergency vehicles.<sup>1</sup> (1) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(2) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(3) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

---

<sup>1</sup>Municipal code reference

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

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

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

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty-five (35) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (Ord. # 8, Dec. `56, as modified)

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

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

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

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

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

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

15-405. U-turns.

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

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway.

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

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

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

---

<sup>1</sup>State law reference

See Tennessee Code Annotated, section 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

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

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

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

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

---

<sup>1</sup>Municipal code reference

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

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

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

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

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

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

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

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted.

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

(1) Green alone, or "Go":

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

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

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

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

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

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

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that generally a right turn on a red signal shall be permitted at all intersections within the 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 city at intersections which the city decides require no right turns on red in the interest of traffic safety.

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

(4) Steady red with green arrow:

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

(b) Pedestrians facing such signal shall not enter the roadway 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.

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

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

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

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

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

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

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

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>1</sup> except in an emergency.

---

<sup>1</sup>State law reference

See Tennessee Code Annotated, section 55-8-143.

CHAPTER 6

PARKING

SECTION

15-601. Generally.

15-602. Angle parking.

15-603. Occupancy of more than one space.

15-604. Where prohibited.

15-605. Loading and unloading zones.

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

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

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street.

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

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

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

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;

(8) Within fifty feet (50') of the nearest rail of a railroad crossing;

(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is (a) physically handicapped, or (b) parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, section 55-8-160(c).

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone.

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Deposit of driver license in lieu of bail.

15-701. Issuance of traffic citations.<sup>1</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address.

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

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation.

The offender may waive his right to a judicial hearing and have the charges disposed of out of court, but the fines shall be three dollars (\$3.00)

---

<sup>1</sup>Municipal code reference

Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: see title 6, chapter 1.

State law reference

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

within thirty (30) days and five dollars (\$5.00) thereafter, except for the violation of parking in a handicapped parking space under section 15-604 (13) of this code, for which the offender may be punished according to the general penalty provisions of this code of ordinances.

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been issued and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of.

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

15-706. Deposit of driver license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court of this town in answer to such charge before said court.

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

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the town court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with provisions of Tennessee Code Annotated, section 55-7-401 et seq.

## TITLE 16

STREETS AND SIDEWALKS, ETC<sup>1</sup>

## CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.

## CHAPTER 1

MISCELLANEOUS

## SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Trees, vehicles etc., obstructing view of streets prohibited.
- 16-105. Projecting signs and awnings, etc., restricted.
- 16-106. Banners and signs across streets and alleys restricted.
- 16-107. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-108. Littering streets, alleys, or sidewalks prohibited.
- 16-109. Driveways, drainage ditches, fill-ins, etc., obstruction of drainage ditches.
- 16-110. Abutting occupants to keep sidewalks clean, etc.
- 16-111. Parades, etc., regulated.
- 16-112. Operation of trains at crossings regulated.
- 16-113. Animals and vehicles on sidewalks.
- 16-114. Fires in streets, etc.
- 16-115. Street maintenance.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials.

16-102. Trees 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.

---

<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: see title 15.

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection.

16-104. Trees, vehicles etc., obstructing view of streets prohibited. It shall be unlawful for any property owner or occupant to have or maintain or allow on his property any tree, shrub, sign, vehicle or other obstruction which prevents persons entering public streets or alleys from private driveways from obtaining a clear view of traffic when entering the street.

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.<sup>1</sup>

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 board of commissioners after a finding that no hazard will be created by such banner or sign.

16-107. 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.

16-108. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes.

16-109. Driveways, drainage ditches, fill-ins, etc., obstruction of drainage ditches. (1) It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way.

(2) Property owners making a way of ingress and egress to said property shall file with the city clerk, at city hall a request and/or application for permission for such installation.

---

<sup>1</sup>Municipal code reference

Building code: see title 12, chapter 1.

(3) Proper inspection of driveway shall be made by the city and said inspection and report shall determine if said driveway will effect in any way water drainage problem on city streets, and this report shall be on file at the city hall.

(4) If at the discretion of the city inspector, said driveway should have a tile installation for proper water drainage on the city's streets, then tile shall be installed at the expense of the city's streets, then tile shall be installed at the expense of the property owner; tile cost to the property owner and the city to make the proper installation; said driveway shall constitute a width of not less than 12 feet of 10" tile for proper drainage.

(5) Lots to be filled in must pass the same requirements as drain tile. The fill-in shall not block any water drainage or cause a water problem to the city or a neighbor from such fill-in. (Ord. # 119, Feb. '75, as modified)

16-110. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk.

16-111. 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 recorder.

16-112. 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; nor shall he make such crossing at a speed in excess of twenty-five (25) miles per hour. 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.

16-113. 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.

16-114. 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.

16-115. Street maintenance. (1) All maintained streets within the limits of the City of Whitwell shall have minimum width of 20 feet, and pre-existing streets must be 8 to 20 feet wide.

(2) All city streets within the city limits of the City of Whitwell that are to be maintained must have two (2) or more residents living on said street. (Ord. # 163, Dec. `83, as modified)

## CHAPTER 2

EXCAVATIONS<sup>1</sup>

## SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.

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

---

<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).

16-202. Applications. Applications for such permits shall be made to the city manager, 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 to the work to be done. Such application shall be rejected or approved by the city recorder within twenty-four (24) hours of its filing.

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

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the city manager a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the city manager may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the city recorder a surety bond in such form and amount as the city manager shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration.

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

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore the 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 manager 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.

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 manager in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$130,000 for each person and \$350,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate.

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

16-209. Supervision. The person designated by the city manager 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.

## TITLE 17

REFUSE AND TRASH DISPOSAL<sup>1</sup>

## CHAPTER

## 1. TRASH BURNING, DUMPING, DISPOSAL, ETC.

## CHAPTER 1

TRASH BURNING, DUMPING, DISPOSAL, ETC.

## SECTION

17-101. Trash accumulation.

17-102. Dumping.

17-103. Burning near buildings.

17-104. Unattended fires.

17-105. Conforming receptacles.

17-106. Unauthorized removal.

17-101. Trash accumulation. It shall be unlawful for any person to accumulate or permit to accumulate on any premises in the city any trash, garbage, or other waste, vegetable or animal matter, or refuse of any kind. (Ord. # 33, Aug. `58)

17-102. Dumping. It shall be unlawful for any person to dump or place on any premises, right-of-way, or open ditch in the city limits any garbage, waste, or refuse or trash of any kind. (Ord. # 33, Aug. `58)

17-103. Burning near buildings. It shall be unlawful for any person to burn or set fire to any trash, waste, or refuse of any kind within 50 feet of any building or other structure or within 5 feet of any property line. It shall be unlawful for any person to burn or set fire to any trash, waste, or refuse of any kind upon any property other than that owned by said person. (Ord. # 33, Aug. `58)

17-104. Unattended fires. It shall be unlawful for any person burning trash, waste or refuse to leave said fire unattended without first ascertaining that the fire has completely burned itself out or has been completely extinguished. (Ord. # 33, Aug. `58)

---

<sup>1</sup>Municipal code reference

Property maintenance regulations: see title 13.

17-105. Conforming receptacles. All garbage, ashes, refuse and trash placed upon or along the streets of the city to be removed by the collectors thereof shall be placed in receptacles. Receptacles for garbage shall be metallic, water-tight vessels of standard type, fitted with proper covers. Such receptacles shall be not less than ten (10) inches nor more than twenty (20) inches in diameter, and not less than eight (8) inches nor more than twenty-six (26) inches in height. Receptacles for ash and refuse shall be metal ash cans not more than twenty-six (26) inches in height and twenty (20) inches in diameter. (Ord. # 33, Aug. '58)

17-106. Unauthorized removal. It shall be unlawful for any unauthorized person in the city to remove, destroy, or mutilate any garbage or refuse receptacle not his own. It shall be unlawful for any unauthorized person in any manner to interfere with or remove any part of the garbage, ashes, refuse, waste paper, rags, scrap iron, scrap glass, scrap copper, or other property places on the sidewalks or on or along the streets of the city for removal by collectors thereof. (Ord. # 33, Aug. '58)

TITLE 18

WATER AND SEWERS<sup>1</sup>

CHAPTER

1. WATER AND SEWERS.
2. SEWAGE AND HUMAN EXCRETA DISPOSAL.
3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1

WATER AND SEWERS

SECTION

- 18-101. Turning on.
- 18-102. Application - fee.
- 18-103. Deposit.
- 18-104. Plumbing.
- 18-105. Service connection - fee.
- 18-106. Resale.
- 18-107. Tampering.
- 18-108. Installation.
- 18-109. Pipes.
- 18-110. Repairs.
- 18-111. Excavations.
- 18-112. Shut off boxes.
- 18-113. Meters required.
- 18-114. Reading meters.
- 18-115. Testing meters.
- 18-116. Rates - inside the city limits.
- 18-117. Rates - outside the corporate limits.
- 18-118. Bills.
- 18-119. Construction contractors.
- 18-120. Non-payment.
- 18-121. Lien.
- 18-122. Foreclosure of lien.
- 18-123. Water emergency.
- 18-124. Future extensions and elevation limitations.
- 18-125. Unauthorized use of or interference with water supply.
- 18-126. Limited use of unmetered private fire line.
- 18-127. Damages to property due to water pressure.
- 18-128. Liability for cutoff failures.

---

<sup>1</sup>See Ord. # 131A Regulating Water Line Installations, for technical guidelines and requirements on water line installation and extensions.

- 18-129. Restricted use of water.
- 18-130. Interruption of service.
- 18-131. Schedule of rates.
- 18-132. Flat fee increase.
- 18-133. Regulation of the use of master water meters.

18-101. Turning on. No water from the municipal water system shall be turned on for service into any premises by any person other than the superintendent of the municipal water system or some person authorized by him to perform this service. (Ord. # 27, July `58)

18-102. Application - fee. Application to have water turned on shall be made in writing to the city recorder and shall contain an agreement by the applicant to abide by and accept all the provisions of this chapter as conditions governing the use of the municipal water supply by the applicant. (Ord. # 27, July `58)

18-103. Deposit. A non-refundable connect fee of \$50.00 is required prior to the application. (Ord. # 27, July `58, as amended by Ord. # 99, Oct. `69, and Ord. #250, March 2005)

18-104. Plumbing. No water shall be turned on for service in premises in which the plumbing does not comply with the ordinances of this city; provided, that water may be turned on for construction work and unfinished buildings, subject to the provisions of this chapter. (Ord. # 27, July `58)

18-105. Service connection - fee. No connections with a water main shall be made without a permit being issued and twenty-four (24) hours' notice have been given to the superintendent of the municipal water system. All such connections shall be made under the supervision of the superintendent, and no connections shall be covered until the work has been inspected by him or by his authorized agent. Applications for such connections must be made to the city recorder and a fee of from \$450.00 to \$750.00 for a 3/4" meter; \$1,000.00 for a 1" meter and \$1,500.00 for a 2" meter shall be paid for the cost of installing a meter for domestic customers. For all others, the connection fee shall be the actual cost of labor and materials for such connection. (Ord. # 27, July `58, as amended by Ord. #250, March 2005)

18-106. Resale. No water shall be resold or distributed by the recipient thereof from the municipal water system to any premises other than that for which application has been made and the meter installed, except in case of emergency. (Ord. # 27, July `58)

18-107. Tampering. It shall be unlawful for any person not authorized by the city to tamper with, alter or injure any part of the municipal waterworks or supply system, or any meters. (Ord. # 27, July `58)

18-108. Installation. All service pipes from the mains to the premises served shall be installed by, and at the cost of, the owner of the property to be served or the applicant for the service. Such installation shall be under the inspection of the superintendent. (Ord. # 27, July `58)

18-109. Pipes. No service shall be installed unless it conforms to all specifications set forth in any municipal ordinance<sup>1</sup> of this city. Such specifications, when adopted, shall be kept on file by the city recorder, and shall be opened to inspection by any person interested. (Ord. # 27, July `58)

18-110. Repairs. All repairs for service pipes and plumbing systems of buildings shall be made by and at the expense of the owners of the premises served. The city may, in case of emergency, repair any service pipes and if this is done, the cost of such repair work shall be paid to the city by the owner of the premises served. (Ord. # 27, July `58)

18-111. Excavations. All excavations for installing service pipes or repairing the same within any road, street, or right-of-way shall be repaired and replaced so as to place said road, street, or right-of-way in the same condition as existed prior to such excavation. In the event such excavation is not so refilled, the city shall have the right to refill, and recover such excavation so as to meet the requirements of this chapter, and the costs thereof shall be charged to the owner of the property for the service of which the excavation was made, and shall be added to his next succeeding monthly water bill. Collection of these charges may be made in the same manner as the collection for regular water service. (Ord. # 27, July `58)

18-112. Shut off boxes. Shut off boxes or service boxes shall be placed on every service pipe, and shall be located between the curb line and the sidewalk where existing or where practicable. Such boxes shall be so located that they are easily accessible and shall be protected from frost. (Ord. # 27, July `58)

18-113. Meters required. All premises using the municipal water supply must be equipped with an adequate water meter furnished by the city; provided that such water service may be supplied by the city to construction contractors as set forth in section 18-119 of this chapter at a flat rate. (Ord. # 27, July `58)

18-114. Reading meters. The superintendent of the municipal water system shall read or cause to be read every meter used in the city at such times as are necessary that the bills may be sent out at the proper time. (Ord. # 27, July `58)

---

<sup>1</sup>See Ord. # 131A Regulating Water Line Installations, for technical guidelines and requirements on water line installation and extensions.

18-115. Testing meters. Any municipal water meter shall be taken out and tested upon complaint of the consumer, upon payment of a fee of \$3.00. If upon test, the meter is not within three percent (3%) of being accurate, it shall be repaired or replaced and the aforesaid fee returned to the consumer, unless the error is in favor of the consumer. (Ord. # 27, July `58)

18-116. Rates - inside the city limits.<sup>1</sup> All property located within the corporate limits upon which any building has been or may hereafter be erected having a connection with any mains or pipes which may be hereafter constructed and used in connection with the municipal water system shall pay the following rates per month:

|                           | Old Rate | New Rate |
|---------------------------|----------|----------|
| Inside City- Minimum Bill | 14.26    | 16.40    |
| Next 2,000 Gallons        | 3.15     | 3.63     |
| Next 2,000 Gallons        | 3.00     | 3.45     |
| Next 2,000 Gallons        | 2.75     | 3.17     |

(Ord. # 27, July `58, as amended by Ord. # 188, Sept. `89, and Ord. #250, March 2005)

18-117. Rates - outside the corporate limits.<sup>1</sup> The rates for water service outside the corporate limits of the City of Whitwell shall be one hundred twenty percent (120%) of those applying within the corporate limits and a service line maintenance fee of two (\$2.00) dollars per month per meter shall be added to the monthly bill of all customers receiving water from the City of Whitwell, Tennessee outside the city limits thereof. This shall be in addition to the aforesaid charges.

|                            | Old Rates | New Rates |
|----------------------------|-----------|-----------|
| Outside City- Minimum Bill | 15.72     | 18.08     |
| Next 2,000 Gallons         | 3.70      | 4.26      |
| Next 2,000 Gallons         | 3.35      | 3.86      |
| Next 2,000 Gallons         | 2.75      | 3.17      |

(Ord. # \_, Aug. `92, as amended by Ord. #250, March 2005)

---

<sup>1</sup>Ordinances #203, June 1997, 233, July 2003, and 240, June 2004, of record in the office of the recorder do not specifically amend the municipal code. These ordinances do however adjust the water rates.

18-118. Bills. Bills for water used shall be dated and sent out at such times as may be directed by the superintendent of the municipal water system. (Ord. # 27, July `58)

18-119. Construction contractors. During the construction of any building and before any water is installed as herein provided, the contractor so constructing such building may be permitted to use the municipal water supply by making application therefor, and paying a flat rate as prescribed in section 18-113 of this chapter. (Ord. # 27, July `58)

18-120. Non-payment. The water supply may be shut off from any premises for which the water bill remains unpaid for a period of ten (10) days after the bill is rendered and mailed. The reconnection fee if water service has been terminated for non-payment shall be \$30.00 for those properties located inside the municipal boundaries of the City of Whitwell and it shall be \$36.00 for those properties located outside the municipal boundaries of the City of Whitwell (Ord. # 27, July `58, as amended by Ord. # 188, Sept. `89; and further amended by Ord. #204, Sept. 1997)

18-121. Lien. Charges for water, tapping charges, installation charges, and all other charges made for water furnished or services rendered by the water system shall be a lien upon the premises as provided by statute. Whenever a bill for water services, or for other charges hereinabove mentioned, remains unpaid sixty (60) days after it has been rendered, the city recorder may file with the Registrar of Marion County, Tennessee, a statement of lien claimed. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the city claims a lien for this amount as well as all charges for water services or other charges hereinabove referred to subsequent to the period covered by the bill.

If the consumer of water whose bills remain unpaid is not the owner of the premises, and the city recorder has notice of this, then notice shall be mailed to the owner of the premises if his address is known to the city recorder whenever such bills remain unpaid for a period of sixty (60) days after it has been rendered.

The failure of the city recorder to record such lien or to mail such notice, or the failure of the owner to receive such notice, shall not affect the right to foreclose the lien for unpaid water bills as mentioned in the following section. (Ord. # 27, July `58, as amended by Ord. # 79, May `64)

18-122. Foreclosure of lien. Property subject to a lien for unpaid water charges, or for other unpaid charges as set forth in the preceding section, shall be sold for non-payment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure

of statutory liens. Such foreclosure shall be by bill of equity in the name of the city. (Ord. # 27, July `58, as amended by Ord. # 79, May `64)

18-123. Water emergency. In the event of an emergency where the water within the city water system is depleted or the city water system is unable to produce sufficient water supply for the purpose that is was created and for the use of regular service customers by reason of the raw water source being depleted, the methods of treatment being curtailed, the pumping facilities being inoperative or the storage facilities malfunctioning or any item necessary in the furnishing or producing of water for the service customers, then and in that event the water system customers shall be restricted according to the type of the emergency existing at the time and the usage of the water shall be limited as directed by an announcement made by the management of the system. This announcement shall be made by radio or other public means in order for water customers to be notified of the said emergency.

In the event of an emergency the fire department will not answer any fire calls outside of the corporate limits of the City of Whitwell. (Ord. # 188, Sept. `89)

18-124. Future extensions and elevation limitations. (1) No new water lines or installations shall be made by the City of Whitwell Waterworks to an area where the elevation exceeds 750 feet (seven hundred and fifty feet).

(2) No future extensions will be made by the City of Whitwell Waterworks to the area serviced by the Ketner Cove pumping station.

(3) No exceptions will be made to the above sections of this chapter unless improvements or updates are made to the Ketner Cove pumping station allowing for additional customers to be serviced. (Ord. # 186, Aug. `89)

18-125. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the city's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the city.

18-126. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the city.

All private fire hydrants shall be sealed by the city, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the city a written notice of such occurrence.

18-127. Damages to property due to water pressure. The city shall not be liable to any customer for damages caused to his plumbing or property by

high pressure, low pressure, or fluctuations in pressure in the city's water mains.

18-128. Liability for cutoff failures. The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

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

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

(3) The city has completely cut off a service but subsequently the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the city's main.

Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also, the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off.

18-129. Restricted use of water. In times of emergencies or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use.

18-130. Interruption of service. The city will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The city shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption.

18-131. Schedule of rates. All water and sewer service shall be furnished under such rate schedules as the city may from time to time adopt by appropriate ordinance or resolution.<sup>1</sup>

---

<sup>1</sup>Administrative ordinances and regulations are of record in the office of the city recorder.

18-132. Flat fee increase. (1) A flat fee of \$6.00 will be set for all city water customers in the amount of \$6.00.

(2) Those customers having received an initial fee charge will be increased to the total amount of \$6.00.

(3) The receipts from this section which will take effect on and after June 1, 1996 shall be used solely for the repair of water lines within the water line system of the City of Whitwell.

The flat fee of \$6.00 may also be used in the repayment of a loan borrowed for the sole purpose of repairing the water lines and acquiring additional water lines, meters, tanks, pumping equipment, easements and property associated and needed in the water department. (Ord. #200, May 1996, as amended by Ord. #237, March 2004)

18-133. Regulation of the use of master water meters. (1) For purposes of the enforcement of this section a "trailer park" is defined as two (2) or more mobile homes located on a single tract of land with a common landlord;

(2) For purposes of the enforcement of this section, a "household" is defined as each individual apartment or mobile home;

(3) Each and every existing and future trailer park and/or apartment building is hereby required to either come under this master meter program or install at least one (1) individual water meter per household;

(4) There shall be a maximum of ten (10) households per each individual master meter;

(5) Before the issuance of any additional master meters, the applicant must come before the board of commissioners and be granted permission by the board of commissioners who shall have the descretion to grant or deny each application;

(6) Each household connected to the city's water lines shall be charged a monthly maintenance fee of \$6.00 per month.

(7) The owner of each apartment building or trailer park shall be required to pay a one time usage fee of \$50.00 for each individual apartment or mobile home that they own and lease to others. The owner of such rental property shall be allowed to make payments on the total amount due the city under this provision. The total of said payments is due in full within a reasonable amount of time not to exceed one (1) year from the date that this section becomes applicable to the owner. Should the owner need additional time to pay this amount, he/she may come before the board of commissioners and request additional time in which to make these payments. The board of commissioners shall then grant the owner additional time to pay this amount upon a showing of good cause.

(8) This section supersedes any and all preexisting ordinances regarding the use of master meters. (Ord. #207, April 1998)

CHAPTER 2

SEWAGE AND HUMAN EXCRETA DISPOSAL<sup>1</sup>

SECTION

- 18-201. Definitions.
- 18-202. Places required to have sanitary disposal methods.
- 18-203. When a connection to the public sewer is required.
- 18-204. When a septic tank shall be used.
- 18-205. Outdoor toilet facilities.
- 18-206. Owner to provide disposal facilities.
- 18-207. Occupant to maintain disposal facilities.
- 18-208. Only specified methods of disposal to be used.
- 18-209. Enforcement.
- 18-210. Correction of violations noted.
- 18-211. Violations.

18-201. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter.

(1) Accessible sewer. A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within 100 feet of any boundary of said property measured along the shortest available right-of-way.

(2) Health officer. The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(3) Human excreta.<sup>2</sup> The bowel and kidney discharges of human beings.

(4) Sewage. All water-carried wastes from residences, buildings, or industrial establishments containing human excreta.

(5) Approved septic tank. A watertight covered receptacle of impervious material, of which the location, construction, and method of disposal of effluent have been approved by the health officer of the state, constructed according to plans furnished by the state's health officer or the following specifications:

The length of the tank, from inlet to outlet, shall be not less than one and one-half (1 1/2) times the width and the effective depth, from the water level to the bottom of the tank, shall be not less than four (4) feet.

---

<sup>1</sup>See title 13 of this code for provisions relating to the administration and operation of the sewer system.

<sup>2</sup>See title 10, Animal Control, for provisions regulating animal waste disposal.

The capacity shall be determined by the amount of sewage to be treated, but no tank shall have effective capacity of less than sixty (60) cubic feet; an addition of eight (8) cubic feet shall be made for each person in excess of six (6), this rule to be applied up to a total of twenty-five (25) persons. The inlet and outlet pipes shall be located in opposite ends of the tank, at approximately the same elevation or with the inlet slightly higher, and the open ends inside the tank shall be submerged by use of a T or quarter bend.

The tank shall have a tight, substantial cover, provided with manholes for cleaning, and tight fitting manhole covers. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply.

(6) Other approved method. Any chemical toilet or other toilet device (other than a sanitary sewer or septic tank as described above) the type, location, and construction of which have been approved by the health officer. (Ord. # 15, May `57, as modified)

18-202. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits of the police jurisdiction of the City of Whitwell shall be required to have a sanitary method of disposal of sewage and human excreta as required by this chapter. (Ord. # 15, May `57)

18-203. When a connection to the public sewer is required. Wherever an accessible sewer exists and water under pressure is available, flush closets shall be provided, the wastes from such closets shall be discharged through a proper connection to said sewer, and on any lot or premise provided with a connection to the sewer, no other method of human excreta disposal shall be employed. (Ord. # 15, May `57)

18-204. When a septic tank shall be used. Wherever flush closets are installed and their use permitted by the health officer, and an accessible sewer does not exist, the wastes from such closets shall be discharged into an approved septic tank. (Ord. # 15, May `57)

18-205. Outdoor toilet facilities. It shall be unlawful for any person within the city to use or keep any outdoor toilet facilities, or use, own, operate, or maintain any such toilet facilities for the disposal or deposit of human waste of any nature or character, which facilities are not connected, in an approved manner, with the sanitary sewer system of the city. The further use of such type of toilet facilities not connected with the sanitary sewer system of the city, whether such person be the owner or tenant of the premises involved, is prohibited.

All such toilet facilities now in use or in existence shall be dismantled and removed, and any openings or pits in the ground or otherwise shall be covered with at least two feet of dirt.

18-206. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary human excreta disposal are required by this chapter, to provide such facilities. (Ord. # 15, May `57)

18-207. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for human excreta disposal in a clean and sanitary condition at all times, and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (Ord. # 15, May `57)

18-208. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of except by a sanitary method of disposal as specified in this chapter. (Ord. # 15, May `57)

18-209. Enforcement. It shall be the duty of the health officer, immediately upon being so directed by the Board of Commissioners, to make an inspection of the methods of disposal of sewage and human excreta. Said inspection shall be repeated at least once a year thereafter. Written or verbal notification of any violation of the chapter shall be given by the health officer to the person or persons responsible under this chapter for the correction of the condition, and correction shall be made after notification. If the health officer shall advise any person that the disposal of sewage made by such person constitutes an immediate and serious menace, failure to remove such menace shall be punishable as provided herein; but such person shall be allowed a reasonable period of time within which to make permanent correction.

All methods of disposal of sewage and human excreta which do not constitute an immediate and serious menace, but which do not comply with the sanitary method of disposal of sewage and human excreta, as defined herein, shall be corrected by the persons responsible therefor under section 18-206 and 18-207 of this chapter. (Ord. # 15, May `57, as modified)

18-210. Correction of violations noted. If the provisions of this chapter have not been complied with within ten days following the date of notification of the violation, the City of Whitwell shall have the right to make or have made such changes or corrections as are deemed necessary by the health officer to meet the requirements of this chapter. The cost of changes and corrections necessary to meet the provisions of § 18-202 and § 18-206 of this chapter shall be charged to the owner. The cost of changes and corrections necessary to meet

the provisions of § 18-207 of this chapter shall be charged to the occupant. (Ord. # 15, May `57)

18-211. Violations. Any person, firm, association, or corporation, or the agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor. (Ord. # 15, May `57, as modified)

CHAPTER 3

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

SECTION

- 18-301. Definitions.
- 18-302. Compliance.
- 18-303. Construction, operation, and supervision.
- 18-304. Statement required.
- 18-305. Inspection required.
- 18-306. Right of entry for inspection.
- 18-307. Correction of existing violations.
- 18-308. Use of protective devices.
- 18-309. Unpotable water to be labeled.
- 18-310. Requirements shall apply to all served by the city.
- 18-311. Violations.

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

(1) Public water system. The waterworks system which furnishes water to Whitwell Waterworks for general use and which is recognized as a public water system by the Tennessee Department of Health and Environment.

(2) Cross-connection. Any physical arrangement whereby a public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains or may contain, contaminated water, sewage, or other waste of liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. By-pass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross-connections.

(3) Auxiliary intake. Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) By-pass. Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) Inter-connection. Any system of piping or other arrangement whereby the public water system 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.

(6) Person. Any individual, corporation, company, association, partnership, state, municipality, utility district, water cooperative, or federal agency. (Ord. # 182, Dec. '88)

18-302. Compliance. The Whitwell Public Water System is to comply with Sections 68-13-701 through 68-13-719 of the Tennessee Code Annotated, as well as the Rules and Regulations for Public Water Systems, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, by-passes, and inter-connections, and establish an effective on-going program to control these undesirable water uses. (Ord. # 182, Dec. '88)

18-303. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross-connection to be made; or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health and Environment, and the operation of such cross-connection, auxiliary intake, by-pass, or inter-connection is at all time under the direct supervision of the water plant operator of the Whitwell Public Water System. (Ord. # 182, Dec. '88)

18-304. Statement required. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply or stores water in an uncovered or unsanitary storage reservoir from which the water is stored therein is circulated through a piping system, shall file with the water plant operator a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or inter-connections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or inter-connection will be permitted upon the premises. (Ord. # 182, Dec. '88)

18-305. Inspection required. It shall be the duty of the water plant operator of the Public Water System to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved, shall be established by the water plant operator of the Whitwell Public Water System and as approved by the Tennessee Department of Health and Environment. (Ord. # 182, Dec. '88)

18-306. Right of entry for inspection. The water plant operator or his authorized representative shall have the right to enter at any reasonable time, any property served by a connection to the Whitwell Public Water System for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, by-passes, or inter-connections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (Ord. # 182, Dec. '88)

18-307. Correction of existing violations. Any person who now has cross-connections, auxiliary intakes, by-passes, or inter-connections in violation of the provisions of this chapter shall be allowed a reasonable time to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of time required to complete the work, the amount of time shall be designated by the water plant operator of the Whitwell Public Water System. The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, section 68-13-711, within a reasonable time and within the time limits set by the Whitwell Public Water System, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued, and physically separate the public water system from the customers on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross-connections, inter-connections, auxiliary intakes, or by-passes are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water system shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard(s) is corrected immediately. (Ord. # 182, Dec. '88)

18-308. Use of protective devices. Where the nature of use of the water supplied a premises by the water system is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation;
- (2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge or the water system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water system;
- (3) That the nature and mode of operation within a premises are such that frequent alternations are made to the plumbing;
- (4) There is a likelihood that protective measures may be subverted, altered, or disconnected.

The water plant operator of the Whitwell Public Water System, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective devices shall be reduced pressure zone type backflow preventer approved by the Tennessee Department of Health and Environment as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the water plant operator of the Whitwell Public Water System prior to installation and shall comply with the criteria set forth by the Tennessee

Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the Whitwell Public Water System shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the water plant operator or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the water plant operator shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or the occupant of the premises. Repairs shall be made by qualified personnel, acceptable to the water plant operator of the Whitwell Public Water System.

The failure to maintain backflow prevention device(s) in proper working order shall be grounds for discontinuing water service to a premises. Likewise the removal, by-passing, or altering the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Whitwell Public Water System. (Ord. # 182, Dec. '88)

18-309. Unpotable water to be labeled. The potable water system made available to premises served by the public water system shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

#### WATER UNSAFE FOR DRINKING

Minimum acceptable sign shall have black letters at least one-inch high located on a red background. (Ord. # 182, Dec. '88)

18-310. Requirements shall apply to all served by the city. The requirements contained herein shall apply to all premises served by the Whitwell Public Water System whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for

the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the Whitwell corporate limits. (Ord. # 182, Dec. '88)

18-311. Violations. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction therefore, shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500), and each day of continued violation after conviction shall constitute a separate offense.

Should any part(s) of this chapter be declared invalid for any reason, no other part(s), of this chapter shall be affected thereby. (Ord. # 182, Dec. '88)

TITLE 19

ELECTRICITY AND GAS<sup>1</sup>

(RESERVED FOR FUTURE USE)<sup>2</sup>

---

<sup>1</sup>Gas service is provided by the City of Dunlap, see Ord. # 83, 1965.

<sup>2</sup>Electric Service is provided by Sequachee Valley Electric.

TITLE 20

MISCELLANEOUS

(RESERVED FOR FUTURE USE)